

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

* * * * *

**RESPONSE OF LINCOLN PARISH SCHOOL BOARD
TO UNITED STATES' STATUS REPORT
REGARDING THE UNIVERSITY LABORATORY SCHOOLS ISSUES**

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 university laboratory schools issues raised in the United States' Status Report which was filed on May 24, 2011, as follows.

I. PROCEDURAL BACKGROUND

A. The District's Desegregation Decree

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 public schools governed by the School Board. 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.¹ 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*”² factors”: student assignment, faculty and staff assignment, transportation, extracurricular activities, and facilities.³ With the exception of an order entered in 1971 which allowed certain school consolidation and closure⁴, no subsequent orders affected the substantive provisions of the 1970 Decree.⁵

B. The Addition of the Laboratory Schools’ Desegregation Issues

On July 13, 1979, the Fifth Circuit Court of Appeals issued a decision which, *inter alia*, directed this Court to add as defendants in this desegregation case the Louisiana Board of Regents and the Louisiana Board of Trustees for the State Colleges and Universities, for the purpose of inserting into this action the desegregation issues related to the laboratory schools located at and operated by Grambling State University (“Grambling”) and Louisiana Tech University (“Louisiana

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

²*Green v. County Sch. Bd. of New Kent County, Va.*, 391 U.S. 340 (1968).

³*See* 1970 Decree, Prior Orders, Exhibit A at pp. 1-16.

⁴*See* 1971 Decree, Prior Orders, Ex. A at pp. 17-18.

⁵From 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 Docs. 3, 6, and 12.

Tech”), which schools were operating within the geographical boundaries of Lincoln Parish.⁶ On February 12, 1980, this Court complied with the Fifth Circuit’s order and these state Boards were added as defendants for the purpose of ending the *de jure* segregation which existed at the laboratory schools run by both public universities.⁷

C. The University Laboratory Schools’ Consent Decree

On July 13, 1984, the Court entered a Consent Decree, which had been agreed upon by all parties, setting forth a separate and distinct desegregation plan for each university laboratory school obligating Grambling and Louisiana Tech, respectively, to take certain affirmative actions regarding each *Green* factor and obligating the School Board to provide specified transportation to Grambling and general cooperative assistance to both universities in the implementation of their respective plans.⁸ The Consent Decree specifically indicated that, after a three (3) year period, either Louisiana Tech or Grambling could make a motion to be declared unitary⁹; however, neither university ever made such a motion.

From 1984 through 1987 and in 1992, Louisiana Tech filed the annual reports required of it by the Consent Decree but no report has appeared on the docket since 1992.¹⁰ According to the court docket, Grambling has never filed the required annual reports.¹¹ No further orders concerning the desegregation of the laboratory schools have been entered in this action.

⁶*Copeland v. Lincoln Parish Sch. Bd.*, 598 F.2d 977 (5th Cir.1979).

⁷Memorandum Ruling entered 2-12-80 on the paper docket at p. 4, Rec. Doc. 1.

⁸1984 Consent Decree, Prior Orders, Ex. A at pp. 19-44.

⁹1984 Consent Decree, Prior Orders, Ex. A at p. 43.

¹⁰*See* Paper Docket at pp. 12-13, Rec. Doc. 1.

¹¹*Id.* at pp. 12-13.

D. The Recent Activity in and Current Posture of this Case

No action of any nature was entered into the record of this case from 1996 until August 14, 2008 when this Court revised the School Board's annual reporting requirements.¹² After the District filed its 2008 report, the Court suggested that either party (i.e., the United States or the School Board) could move forward with an appropriate motion or other action regarding unitary status.¹³ Following a status conference held 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.¹⁴

On January 24, 2011, the DOJ filed its initial report regarding its unitary status review and reported to the Court that it had concerns with the desegregation status of the Louisiana Tech and Grambling laboratory schools and questions regarding the inclusion of the universities in this action.¹⁵ Thus, the DOJ undertook an investigatory review not only of the desegregation progress and status of each defendant (the School Board, Grambling, and Louisiana Tech, respectively) but also of the propriety of continuing to include the universities in this case.

The School Board cooperated fully with the DOJ's investigation. As discussed in its response to the Status Report as it pertained to the unitary status review¹⁶, the District provided voluminous document production, facilitated a site visit by the DOJ, and engaged, through counsel,

¹²Memorandum Order, Rec. Doc.2.

¹³Minute Entry, Rec. Doc. 4.

¹⁴Memorandum Order, Rec. Doc. 2

¹⁵Status Report, Rec. Doc. 16.

¹⁶See Response, Rec. Doc. 34.

in many frank and detailed discussions with the DOJ concerning all issues. Specifically with regard to the laboratory school issues, the DOJ's inquiries primarily involved the School Board's operational relationship with the two universities' laboratory schools. Both Grambling and Louisiana Tech provided their respective responses to information requests concerning this issue which they received from the DOJ and, upon information and belief, facilitated site visits by the DOJ to each university laboratory school campus. This aspect of the DOJ's investigation did not focus on or request documentation of the School Board's compliance with its obligations under the 1984 Consent Decree.

On May 24, 2011, the DOJ filed the United States Status Report¹⁷ which was the culmination of its investigation. The Status Report included a short unitary status review focusing on the School Board's compliance with its desegregation obligations within its District schools. On September 15, 2011, the School Board filed its Response to that portion of the Status Report.¹⁸ The School Board submits the instant Response to the laboratory school issues raised by the DOJ in its Status Report.

**E. A Summary of the Laboratory School Issues
and the School Board's Response**

In the Status Report, the DOJ presented and analyzed what it determined to be relevant information obtained during the investigation. In sum, the DOJ addressed two (2) distinct issues concerning the university laboratory schools and submitted its conclusions, summarized as follows:

¹⁷Status Report, Rec. Doc. 25. As noted, the School Board responded to the unitary status review portion of the Status Report at Record Document 34.

¹⁸Response, Rec. Doc. 34.

- (1) Issue: Whether either Louisiana Tech and/or Grambling demonstrated compliance with the provisions of the 1984 Consent Decree.

DOJ's Conclusion: Based on referenced data and information, neither Grambling nor Louisiana Tech demonstrated effective desegregation efforts.

- (2) Issue: Whether the relationship of the District with each university's laboratory school operations necessitates a review of the School Board's compliance with the 1984 Consent Decree and/or the inclusion of all three (3) entities in remedial relief between/among them.

DOJ's Conclusion: As a result of information cited (but not documented) of alleged "substantial involvement" of the School Board in the operation of the universities' laboratory schools, the desegregation issues in the District must be addressed jointly with those in the universities' laboratory schools "in order to achieve effective remedies to finally eliminate the vestiges of lawful segregation from each of these institutions", thus indicating a need for remedies between and/or among the entities.¹⁹

Because the School Board has no authority or control over the laboratory schools, it does not take any position and, therefore, does not respond to the DOJ's first issue regarding the universities' compliance with their respective obligations under the 1984 Consent Decree. The School Board submits this Response to fully address the DOJ's second issue with documented facts, to present legal standards relative to the School Board's continued involvement in the universities' desegregation plans, to report on the School Board's compliance with the 1984 Consent Decree, and to advise the Court of the District's readiness to move toward a resolution of this issue.

II. THE UNIVERSITY LABORATORY SCHOOLS ISSUES

Subsequent to the filing of the United States' Status Report, the School Board engaged in extensive investigation and analyses in order to submit documented facts to properly define the legal status of each party, the District's relationship with the university laboratory schools, and its position

¹⁹Status Report at pp. 12-13, Rec. Doc. 25.

under the 1984 Consent Decree. The School Board submits the following results of that process in response to the issues both explicitly and implicitly raised by the DOJ.

**A. The Fifth Circuit’s Decision to Add the Laboratory Schools:
Absence of Anticipated Effect on the District’s Decree**

As stated above, this litigation was originally instituted to address the desegregation of the Lincoln Parish public schools governed by the School Board.²⁰ As recognized by the Fifth Circuit, “the composition of the Grambling and Louisiana Tech schools clearly lay outside the scope” of the District’s desegregation decree.²¹ Accordingly, this Court originally denied the United States’ motion to bring the laboratory schools into this action, stating:

The reason for the additional parties is to litigate issues of discrimination and segregation in the laboratory schools at Grambling State University and Louisiana Tech University. These issues are not adjuncts to the issues of discrimination and desegregation in schools under the jurisdiction of the Lincoln Parish School Board. [This action was] concerned only with schools under the jurisdiction of the School Board. Thus, the interests of justice and clarity require that the United States seek its relief in a separate suit rather than in the pending [one].²²

However, the Fifth Circuit rejected the Court’s determination that “justice and clarity require[d]” denying the addition of the universities’ laboratory schools issues into this case, concluding:

[t]o the contrary, an independent determination that the laboratory schools should be desegregated will surely affect any ongoing litigation under the [District’s] decree. It would be much more reasonable to allow the Government to proceed within the context of

²⁰Indeed, the original 1970 Decree and its accompanying Findings of Fact do not mention schools at Grambling or at Louisiana Tech. *See* 1970 Decree and Findings of Fact, Ex. A at pp. 1-16.

²¹*Copeland*, 598 F.2d at 981-82.

²²*Id.* at 982 (quoting Judge Stagg’s opinion).

this ongoing litigation and thus avoid possible duplicative actions and orders.²³

With this, the Fifth Circuit found that the laboratory school issues should be inserted into this action “in the interests of judicial economy.”²⁴ Importantly, the Fifth Circuit did not specify *how* the District’s decree would “surely be affected” by the desegregation of the laboratory schools but referred only to “*possible* duplicative actions and orders”. It was upon this speculation and cautionary prediction that the Fifth Circuit justified the insertion of the laboratory school issues into this action.

Clearly, the Fifth Circuit’s fear did not materialize. In recognition of the governing authority of the respective universities over their laboratory schools, the desegregation of those schools was addressed in a decree separate and apart from the desegregation of the District schools. The 1984 Consent Decree specifically obligated *the universities* - not the School Board - to desegregate their respective laboratory schools.²⁵ The School Board voluntarily agreed to help the desegregation efforts of the laboratory schools via only five (5) particular obligations set out in the Consent Decree.²⁶ No evidence has been revealed which suggests that, in the twenty-seven (27) years since the entry of that decree, the District’s desegregation efforts under its own decree have been affected,

²³*Id.*

²⁴*Id.* at pp. 978 and 982.

²⁵1984 Consent Decree at pp. 4-40 (Grambling/Alma J. Brown Laboratory School) and 40-41 (Louisiana Tech/A.E. Phillips Laboratory School), Prior Decrees, Ex. A.

²⁶1984 Consent Decree at pp. 5, 12, 15, 8, 16, and 23, Prior Decrees, Ex. A. *See Missouri v. Jenkins*, 515 U.S. 70, 88, 91, 115 S.Ct. 2038 (1995)(“[V]oluntary interdistrict remedies may be used to make meaningful integration possible; citing *Jenkins v. Missouri*, 855 F.2d 1295, 1302 (8th Cir.1988)).

adversely or otherwise, by the desegregation efforts of either of the universities' laboratory schools or vice versa.

Nevertheless, in its Status Report, the DOJ urges the Court to address the desegregation issues in the School Board's schools and at the universities' laboratory schools "*jointly* in order to achieve effective remedies to finally eliminate the vestiges of lawful segregation from each of these institutions".²⁷ In order to fully address the propriety of such remedies (which is accomplished in subsection D below), the facts regarding the legal status of and relationships between the District and the universities' laboratory schools must first be distinguished from the fiction.

**B. Legal Status of the University Laboratory Schools:
Wholly Autonomous Legal Entities**

The Fifth Circuit specifically acknowledged that the university laboratory schools located within Lincoln Parish "were, and still are, run by the State Board of Education and by the university officials."²⁸ Both Grambling and Louisiana Tech have expressed agreement that their laboratory schools are both independent legal entities which are wholly owned, operated, controlled, and governed by the respective university. The School Board submits the following in support of this uncontested conclusion.

1. Grambling's Laboratory Schools

Grambling governs and operates Alma J. Brown Elementary School, Grambling Middle School, and Grambling High School, all of which are located on the Grambling campus in facilities owned by Grambling. From a historical perspective, in 1914, the School Board recommended the

²⁷Status Report at p. 12, Rec. Doc. 25.

²⁸*Copeland*, 598 F.2d at pp. 978-79 n. 4.

consolidation of one of its schools operated for black students in the Grambling area (the Allen Green School) with the Lincoln Parish Training School, a Grambling area school for black students that had been established years before as a private school but by 1918 was totally publically funded.²⁹

In 1928, the School Board requested the State of Louisiana to take charge of the Lincoln Parish Training School. The State did so and the institution became a state-funded college known as the Louisiana Negro and Industrial Institute, expanding its program from elementary and secondary grades to freshman college courses. Through the years, Grambling has administered its elementary and secondary grades as laboratory schools as a means of providing its prospective teachers with on-site teaching experiences. Grambling recently stated its mission, goals, and purposes for the laboratory schools, as follows:

[Alma J. Brown is a department of the College of Education (COE) at Grambling State. The mission, goals, and objectives of the COE mirror hte original mission of the University to improve the quality of life for students and surrounding communities. The primary mission of the departments of the COE is more specific: The preparation of teachers and other school personnel to educate a K-12 student population that is increasingly diverse in terms of ethnicity, language, socioeconomics, ability levels, religion and sexual orientation. ... It is the primary role of the school to provide a quality education for all students.

[Grambling High School and Middle Schohol] report to the [COE]. ... The schools are dedicated to supporting and advancing the purposes and the goals of the uinversity. The primary role of the schools is to provide an environment conducive to learning, using innovative instructional practices designed to promote academic success for all students and pre-service teachers. The chief administrative officer of

²⁹The summary of the history of the laboratory schools is taken from *Public Education in Lincoln Parish*, a historical account written by Earvin Ryland and published in 1984. The book is apparently no longer in publication; however, pertinent excerpts are provided in Exhibit B and a copy of the book will be made available to the Court upon request. This history is fairly consistent with the short history provided on the Grambling Middle School webpage which can be located through the link at [www.http://www.gram.edu](http://www.gram.edu).

the unit is the Dean of the college of Education who serves in the capacity of the superintendent.³⁰

The governance and control of the laboratory schools by Grambling is abundantly clear in its own responses to information requests propounded by the DOJ. As quoted above, Grambling indicated that its middle and high school laboratory schools “report to the College of Education at Grambling State University” and the “chief administrative officer of the unit is the Dean of the College of Education who serves in the capacity of the superintendent.” Grambling further stated that its elementary laboratory school “is operated under the administration of [Grambling]” and “is a department of the College of Education (COE) at Grambling State”. Like the middle and high schools, the elementary school’s chief administrative officer is the Dean of the College. Additionally, all of the Grambling laboratory schools’ physical facilities are located on Grambling’s campus and are undeniably owned solely by Grambling.

Neither the historical documentation nor the current responses of Grambling indicate that the School Board has any governing authority or administrative control over Grambling’s laboratory schools. The Grambling laboratory schools are clearly an integral part of Grambling’s operation and under the sole legal authority and control of Grambling. The School Board has absolutely no governing authority or control over the Grambling laboratory schools.

2. Louisiana Tech’s Laboratory School

Louisiana Tech governs and operates A.E. Phillips (“Phillips”), a K-8 school which is located on the Louisiana Tech campus in facilities owned by Louisiana Tech. Around 1910, the Louisiana Industrial Institute (the early predecessor of Louisiana Tech) initiated a “practice school” of five (5)

³⁰Grambling Response to Information Requests, Exhibit C at pp. 1, 6.

grades which was to be used for its teacher training.³¹ The laboratory school has never been under the jurisdiction of the School Board but has continually been administered by Louisiana Tech (in its various prior forms), which in turn has been directly under the jurisdiction of the Louisiana State Board of Education.

Over the years, the laboratory school served the purpose of providing a venue for the college students to observe and practice teaching as well as for the testing of new instructional materials and curriculum ideas.³² Louisiana Tech recently stated its mission, goals, and purposes for its laboratory school, as follows:

A.E. Phillips Laboratory School [Phillips] is known for its strong academic focus and innovative teaching strategies as well as its emphasis on the arts. The school is viewed as a model for its use of technology in the classroom. [Phillips] serves as a site for Louisiana Tech education majors to observe and practice effective teaching strategies in a supportive environment.

...

The mission of [Phillips] is to foster a learning community in which members become creative, self-directed, lifelong learners and effective citizens in a technological, global society.³³

In its responses to the DOJ's information requests, Louisiana Tech confirmed the location of the school on its campus.³⁴ Louisiana Tech also confirmed that its laboratory school "is not considered part of Lincoln Parish [public schools] with regards to state/federal accountability".³⁵

³¹This historical summary also is taken from *Public Education in Lincoln Parish*, as referenced above, and pertinent parts are provided in Ex. B.

³²*Public Education in Lincoln Parish*, Ex. B at p. 11.

³³Louisiana Tech Response to Information Requests, Exhibit D at p. 3.

³⁴Louisiana Tech Response, Ex. D at p. 3.

³⁵*Id.* at p. 11.

Furthermore, the response indicates that Louisiana Tech has full administrative control over the funding which supports its operations.

As with Grambling, neither the historical documentation nor the current responses of Louisiana Tech indicate that the School Board has any governing authority or administrative control over Louisiana Tech's laboratory school. The physical facilities are owned by Louisiana Tech; as more thoroughly discussed below, any funds which come from the School Board are disbursements from state and/or federal funds received by the School Board on behalf of the university and distributed accordingly. The Louisiana Tech clearly exercises the sole legal authority and control over its laboratory school, which is its own historical creation and present operation. The School Board has absolutely no governing authority or control over Phillips.

**C. Relationship with the University Laboratory Schools:
Fiscal Agent and Contract Service Provider**

1. Fiscal Agent

Apart from the Court-ordered obligations requiring the School Board to expend funds to provide transportation for the benefit of desegregation efforts of Grambling, the School Board has no legal authority or responsibility to expend funds for the benefit of any person or entity other than its own students and school operations.³⁶ The State, however, does require that the School Board act as the fiscal agent for purposes of distribution of funding via the Minimum Foundation Program ("MFP") to the university laboratory schools. In 2006, a Resolution of the Louisiana House of Representatives directed the Legislative Fiscal Office to the means and methods of funding the

³⁶The Louisiana Constitution specifically prohibits such expenditures, deeming such to be "illegal donations" of public funds. La. Const. Art. 7 §14(A).

State's nine (9) university laboratory schools, including those at Grambling and Louisiana Tech.³⁷

The result of that study was a fourteen (14) page report which addressed the complex and unique ways that funding of the various laboratory schools has been handled.³⁸

Unlike the Louisiana State University and Southern University laboratory schools, which receive their funding directly from the State without involvement of the local Parish school district, the report confirmed the process utilized by Grambling and Louisiana Tech (as well as the Northwestern University laboratory schools) with the School Board as the fiscal agent through which funding flows directly and indirectly.³⁹ It is clear that the "support" provided by the School Board to each university for the operation of the laboratory schools has been in the form of passing along, either directly or indirectly, funds meant for the operation of the laboratory schools and for the benefit and best interests of the students as consideration contractually agreed upon by the District with each university.

2. Contract Service Provider

At least since 2003, the District has entered into separate administrative agreements with both Grambling and Louisiana Tech through which the respective parties formalized their agreements for the District's provision of specified services in exchange for compensation for same. In 2007, the

³⁷House Resolution No. 133, 2005 Regular Legislative Session, Louisiana House of Representatives.

³⁸*Report to the House Committee on Education of the Louisiana Legislature*, April 2006, Exhibit E.

³⁹*Report*, Ex. E at pp. 4-5.

School Board entered into its most recent “Memorandum of Understanding” (“MOU”) with each university.⁴⁰ Consistent with its role as fiscal agent for both universities, the District agreed via these MOU’s to provide both direct and indirect disbursement of funds for the support and operation of the respective laboratory schools.

The majority of the MOU provisions simply formalized the method by which the District would distribute funding it received on behalf of each university - whether by cutting a check directly to the respective university, reimbursing the universities for certain expenses, performing services in lieu of direct payments, or other method. Some of the terms included in each MOU related to legal obligations under the 1984 Consent Decree, state law, and federal law while others resulted from continued tradition-based services that developed over the years between the School Board and the university laboratory schools rather than the legal relationship between the entities.⁴¹ In accordance with the respective MOU, the District has received MFP funds and, in turn, distributed portions those funds to the universities and/or its employees directly and utilized portions to provide benefits to university employees and to provide supplies, equipment, instructional services, and administrative services. The District has undertaken an extensive examination of its financial records in order to provide Financial Accounting Summaries which set out the amount of funds which have flowed through the District pursuant to the MOU for the benefit of the respective laboratory

⁴⁰Declaration of Danny Bell at ¶ 3 and Attachments 1-2, Exhibit F.

⁴¹See Bell Declaration at ¶¶ 4-5, Ex. F.

schools.⁴² The financial records demonstrate that the District does not expend funds independently that were not required by the MOU or by law.

3. Inappropriate Comparisons

The Status Report refers to a number of undocumented conclusions that are contrary to the actual relationship between the universities and the School Board. To clarify those misconceptions and to address other statements which express or insinuate School Board authority or control, the School Board addresses each separately in the order in which the references are made in the Status Report, as follows.

a. Grambling: Student Assignment

The Status Report references the 100 percent black student population at the Grambling laboratory schools and states that it “substantially exceed[s] the proportions in the Board’s Ruston zone, in which the schools are physically located, and of Lincoln Parish as a whole”.⁴³ The comparison of the Grambling student enrollment with the District’s student enrollment, whether in the Ruston attendance zone or District-wide, is a wholly misleading statement as it appears to suggest that Grambling has an obligation to have its student body reflect that of the District or that the School Board has some control over how Grambling effects its enrollment. Nothing in the 1984 Consent Decree speaks to Grambling having to even try to reflect the Lincoln Parish District

⁴²Declaration of George Murphy at ¶¶ 2-4 and Attachments 1-2, Exhibit G. The financial administrators for each university were provided with the Financial Accounting Summary, respectively, and supporting documentation. As of the date of this Response, neither university has challenged the accuracy of its own report. Murphy Declaration at ¶ 5, Ex. G.

⁴³Status Report at p. 8, Rec. Doc. 25.

enrollment ratios. The simple fact that the Grambling laboratory schools are physically located in the District's Ruston attendance zone should make no difference in the desegregation plan for Grambling, especially since many of its students come from outside Lincoln Parish.⁴⁴ Importantly, it is improper and unrealistic to hold a university laboratory school to the same racial ratio as the public school district in which it is physically situated, especially when the laboratory school charges tuition and enrolls students from multiple parishes.

b. Grambling: Faculty

The Status Report compares the 78.6% black faculty at Grambling to the 14.3% District-wide black faculty employed by the School Board.⁴⁵ In addition to this comparison, the Status Report gives a faculty ratio for the District which includes the university laboratory schools. Both the comparison of faculty ratios and the inclusion of the laboratory school employees in the District's faculty ratio have *never* before been done in the history of this case and are wholly improper given the lack of employment authority or control over any of the Grambling (or Louisiana Tech) employees.

The Status Report also states that “[a] number of teachers at each [Grambling laboratory] school were hired and employed by the Board, not GSU”.⁴⁶ This statement is true but misleading. The *only* teachers assigned to Grambling who are employed by the School Board are those providing

⁴⁴Based on Grambling's student enrollment records for school year 2010-2011 submitted to the DOJ in March 2011, nearly thirty percent (30%) of the students enrolled in its schools are not Lincoln Parish residents. *See* Bell Declaration at ¶6, Ex. F.

⁴⁵Status Report at p. 8, Rec. Doc. 25.

⁴⁶*Id.*

special education instruction and services pursuant to the District's obligations under the Individuals with Disabilities Education Act (the "IDEA").⁴⁷ The presence of the District's special education personnel or of District employees provided relative to any provision of the MOU does not indicate any authority or control of the School Board over the faculty or other personnel employed by Grambling.

c. Grambling: Facilities

The Grambling laboratory school facilities are state-owned and maintained by Grambling.⁴⁸

As clearly explained in the Legislative Fiscal Office report:

The process for obtaining funding for capital outlay is essentially the same for each lab school. The university lab school building is a state owned building, as it is a university building. To obtain capital outlay funding for the lab school building the school must set priorities, which are then submitted to the respective university and prioritized along with other university projects. The university in turn must send their prioritized list to the university board. The university board will set priorities for projects for all of their universities and then that list is sent to the Board of Regents. From that point the Division of Administration's Facility and Planning Control will analyze projects that may be placed in the Capital Outlay Bill.

....

...[T]here may be needs of the school that are greater than what the tuition may support. The school may obtain funding from the university's operating budget to make necessary repairs. ... While the process of obtaining funding to maintain lab schools is the same, it is different than a regular public school. The school district maintains their buildings, as they are not state buildings. To maintain their buildings the school district has the opportunity to pass local taxes.⁴⁹

⁴⁷20 U.S.C. §1400, *et seq.*; Declaration of Kathy Shipp at ¶5, Exhibit J. The provision of special education services is discussed in detail below.

⁴⁸*Report*, Ex. E at p. 5.

⁴⁹*Id.*

There can be no doubt that Grambling (and Louisiana Tech, for that matter) is responsible for its laboratory school facilities. The School Board has no control over the physical property and has no legal authority to expend funds or to go on the grounds, without permission, for the purpose of maintaining, repairing, or constructing any Grambling (or Louisiana Tech) laboratory school facility. Additionally, the inserted reference that Grambling opened a new computer lab last school year “with funding from the Board” is misleading at best. The School Board was merely the conduit for providing Title I monies which funded the purchase of the computers for that lab.⁵⁰

d. Louisiana Tech (A.E. Phillips)

As with its Grambling analysis, the DOJ compares Phillips’ student enrollment to that in the District. The District’s enrollment data could only provide a contrived basis for measurement of the desegregation at any of the laboratory schools because it would be nearly impossible to reflect the racial ratios of a public school system in a university laboratory school which has admission and tuition requirements. The Status Report provides a quick overview of facilities, curriculum, and technology at the Louisiana Tech laboratory school which concludes that its program exceeds that offered by Grambling’s laboratory schools. The School Board does not dispute such a conclusion but would submit that it has no authority or control over either university laboratory school programs and would, therefore, have no stake in and can not be held accountable for such matters - as to either universities’ laboratory schools.

4. Perception vs. Reality

Although the status of Grambling and Louisiana Tech as the sole governing and controlling authorities over their respective laboratory schools is historically and legally supported *and* while

⁵⁰See Murphy Declaration at Attachments 1-2, Ex. G.

the MOU and supporting accounting summaries show the lack of independent financial support of the university laboratory schools by the School Board, the District's relationship with the university laboratory schools has been undeniably blurred, confused, and complicated by public misperception. It is, thus, not surprising that the DOJ reported a number of undocumented conclusions, from unidentified sources, which are patently incorrect and/or simply misleading about the School Board's relationship with the university laboratory schools. The following clarifies each of those conclusions which are set out at pages 11-12 of the Status Report, as follows.

- (a) "Both the [Louisiana Tech] and [Grambling] lab schools operate with assistance from the Lincoln Parish School Board."

This is technically a true statement but is misleading. The assistance provided by the School Board consists *only* of those obligations set out in the 1984 Consent Decree and those services provided by mutual agreement of the parties in the respective MOU, as discussed above. The District's provision of such services likely contributed to the public's perception that the District had authority over laboratory school operations when it did actually not. The District has been working diligently to correct the public's understanding of its relationship with the laboratory schools.

- (b) "The lab schools are located in and considered part of the Board's Ruston zone for state and federal accountability purposes."

This is an absolutely untrue statement. The university laboratory schools are *not* part of the District for accountability purposes.⁵¹ The Legislative Fiscal Office noted that Grambling and Louisiana Tech do not report their school performance scores with the District's scores.⁵²

⁵¹See Bell Declaration at ¶7, Ex. F; Louisiana Tech Response, Ex. D at p. 11; School Report Cards, Exhibit I (including report summary pages with identification of "District").

⁵²Report, Ex. E at p. 6.

- (c) “The Board includes data for the lab schools in its annual compliance reports in this case...”

This is true but the implication misconstrues the presence of such data in the reports as evidence of District authority and/or control over the laboratory schools. The School Board has previously filed its computer-generated reports that have student enrollment numbers for the laboratory schools because the reports were generated as official October 1st student enrollment reports to be submitted to the State for the purpose of calculating MFP funds.⁵³ The School Board is, of course, the fiscal agent for the laboratory schools and, therefore, must include the laboratory schools’ student enrollment numbers on that report.⁵⁴ Both Grambling and Louisiana Tech input their own student data in the computer program from which the report is generated.⁵⁵ These reports were merely used, without redaction, to satisfy the reporting requirements for the official enrollment in the District’s schools in this case.⁵⁶

- (d) “The Board ... lists the lab schools on its website.”

This was true in the past but is no longer accurate. As a courtesy, the District previously provided a link on its website to the webpages maintained by the university laboratory schools.⁵⁷ A new District website was established in 2010, however, and, to avoid confusion in the future, the links to the university laboratory schools have been removed.⁵⁸

⁵³Bell Declaration at ¶ 8, Ex. F.

⁵⁴*Id.*

⁵⁵*Id.*

⁵⁶*Id.*

⁵⁷*Id.* at ¶9.

⁵⁸*Id.*; see www.lincolnschools.org.

- (e) “The Board serves as a conduit for state funding and provides in-kind resources to the lab schools....”

This is true but the inference that the District independently finances resources is inaccurate. The provision of resources is not by financed by the District’s general funds. As fully discussed above, the School Board does serve as the fiscal agent for the university laboratory schools. All “in-kind” resources are provided pursuant to the MOU’s by mutual agreements of the respective parties and are funded through MFP funds, either as reimbursement, direct payments, or indirect provision of administrative services.⁵⁹

- (f) “Assessment of students for gifted and special education classes is conducted by the Board.”

This is true but the implication that the District provides these services voluntarily or as some form of control over the laboratory schools’ operations is misleading. The District provides special education services, including assessments, to the laboratory schools pursuant to its obligations under the IDEA.⁶⁰ Since before 2004, the District has provided such services to students with disabilities who attend Phillips and since 2005 to students with disabilities who attend Grambling’s laboratory schools.⁶¹ The District provides these services to students at all the laboratory schools as required by federal law and received federal funding in partial compensation for such services.⁶² While the

⁵⁹See Bell Declaration at ¶4 and Attachments 1-2, Ex. F; Murphy Declaration at Attachments 1-2, Ex. G.

⁶⁰Shipp Declaration at ¶¶2-5, Ex. H.

⁶¹*Id.* at ¶¶ 2-3.

⁶²*Id.* at ¶ 5.

special education teachers are District employees, they are assigned to Phillips but remain under the full administrative control of the District.⁶³

- (g) “Lab school students may participate in sports and school activities at the Board’s schools that are not offered by the lab schools.”

This is partially true but only in compliance with and as the District is compensated via the MOU with Louisiana Tech. Pursuant to its MOU with Louisiana Tech, the District allows seventh and eighth grade students at Phillips to participate in the Ruston Middle School football program. This provision works to the mutual benefit of both parties. Phillips does not offer an athletic program, so the students get the opportunity to play football. Because nearly 100 percent of the students from Phillips matriculate to Ruston High School following completion of the 8th grade at Phillips, the high school’s athletic program realizes a direct benefit from the early training of these athletes. The MOU provision gives absolutely no control or authority over which children choose to participate from Phillips or over Phillips in general. This is the only extracurricular activity in which Phillips students participate. Grambling has not requested any such participation because it maintains an athletic program at its laboratory schools. Neither university has requested that its students be permitted to participate in any other extracurricular activity.

- (h) “Based on information provided by [Grambling and Louisiana Tech], discrepancies may exist in the resources provided by the Board to A.E. Phillips and the [Grambling] lab schools, including the area of transportation.”

Contrary to the implication that the District provides more resources to Phillips than it does to Grambling, the District’s accounting demonstrates that it actually has provided considerably more

⁶³*Id.*

services resulting in more resources to Grambling than to Phillips. The services provided to each university are dictated by their respective MOU with the District. Regardless, Louisiana Tech has expressed satisfaction with the quantity and quality of services provided by the District to Phillips under its MOU.

E. Interdistrict Relief Unjustified

As previously stated, the DOJ suggests that the Court must consider the desegregation issues in the School Board's schools and at the universities' laboratory schools "*jointly* in order to achieve effective remedies to finally eliminate the vestiges of lawful segregation from each of these institutions".⁶⁴ As demonstrated above, this position rests on erroneous perceptions and speculation regarding the School Board's legal authority and responsibility in the control and governance of the laboratory schools. Clearly, the School Board, Grambling, and Louisiana Tech each operate distinct, autonomous public school systems, legally unrelated except through contractual agreements. When remedial measures would affect two (2) or more autonomous school systems, such remedies would be interdistrict in nature and, thus, the court must demand the satisfaction of certain requisite legal standards before such remedies could be imposed.⁶⁵

In this case, the requirements for interdistrict remedies are not present. Neither the 1984 Consent Decree nor any other Court rulings found or otherwise referred to the existence of any racially discriminatory acts of the School Board which would justify the imposition upon it of an

⁶⁴Status Report at p. 12, Rec. Doc. 25.

⁶⁵*Taylor v. Ouchita Parish Sch. Bd.*, 648 F.2d 959, 969 (5th Cir.1981).

interdistrict remedy for the benefit of either of the universities' laboratory schools. No evidence suggests that the District, Grambling, and/or Louisiana Tech have engaged in any intentional racially discriminatory acts that have caused segregation within any of the three educational systems.⁶⁶ United States Supreme Court precedent, as followed by the Fifth Circuit as well, instructs that court-ordered interdistrict relief is not justified under the circumstances present in this case.⁶⁷

Even if interdistrict relief would somehow be deemed proper, the School Board would show that court-ordered interdistrict remedies would not be appropriate with regard to the student enrollment and faculty issues raised by the DOJ as potential reasons for such interdistrict relief. As to the student enrollment issue, the situation in this case is not akin, for example, to those where interdistrict student transfers may adversely impact desegregation in adjacent school systems. Here, students and their parents make a personal decision to apply to attend and pay tuition to attend their laboratory schools of choice. Such personal choices are beyond the control of the School Board - and, indeed, the university laboratory schools themselves - for which a school system under a

⁶⁶See *Milliken v. Bradley*, 418 U.S. 717, 744-45 (1974) (must show racially discriminatory acts have been a substantial cause of interdistrict segregation).

⁶⁷See, e.g., *Milliken*, 418 U.S. at 744-45 (interdistrict remedy requires showing of racially discriminatory acts of one school district have been a substantial cause of segregation in an adjacent district); *Jenkins*, 515 U.S. at 88, 90 (proper response to an intradistrict violation is an intradistrict remedy where there is no interdistrict violation and effect; interdistrict goal to attract nonminority students from adjacent district is pursuit of "desegregative attractiveness" which is beyond the scope of the court's broad remedial authority); *Taylor*, 648 F.2d at 968-69 (intradistrict problems of two separate and autonomous school districts without interdistrict violation and effect do not allow interdistrict remedy); *United States v. State of Mississippi*, 921 F.2d 604, 608 (5th Cir.1991)(where system's enrollment and racial composition remained stable during the relevant period, no significant interdistrict segregative effect)

desegregation order cannot be held responsible.⁶⁸ The School Board would submit that to attempt to reflect a certain racial ratio in laboratory schools which operate with students who elect to attend and are required to pay tuition to do so would be far beyond impracticable.

The DOJ also expressed a “concern” that the “low overall number of black teachers in the Board’s schools may be related, at least in part, to the presence of virtually all-black faculties at the Grambling lab schools.”⁶⁹ While a “virtually all-black faculty” is indeed a concern for Grambling, the School Board cannot control the personal preference of teachers who apply for and choose to be hired by Grambling as opposed to apply for and be hired by the School Board. There is no evidence that the School Board has engaged in any racially discriminatory act which would discourage black teachers from applying and/or accepting positions with the District or which would encourage black teachers to apply to and/or accept positions with Grambling instead. Certainly, the School Board submits that it has consistently acted in good faith with regard to its obligations to maintain lawful faculty ratios in all of its schools and the Grambling faculty racial make-up is a matter based on personal choices of the teachers and, thus, beyond its control.

In any event, the School Board would further submit that it will, in good faith, continue to assist Grambling and Louisiana Tech in their respective desegregation efforts in ways which would not impose a monetary cost to the District. Such support and help could include the continued provision of services pursuant to a renewed and revitalized MOU with each institution, distribution to its students of such recruiting materials as the university laboratory schools may provide, to

⁶⁸*Flax v. Potts*, 915 F.2d 155, 161-62 (5th Cir.1990).

⁶⁹Status Report at pp. 8-9, Rec. Doc. 25.

provide use of District facilities by the university laboratory schools to make presentations regarding its special programs to potential students, and such other no-cost assistance as may be requested by the respective universities which would not disrupt the educational process at the District schools. The School Board would submit that an order by this Court regarding the provision of such assistance is unnecessary as the School Board has demonstrated a good faith commitment to voluntarily provide such assistance upon request, its policies and practices provide adequate procedures for implementing such assistance, and it is legally bound to continue to provide transportation and IDEA services.

III. The Universities' 1984 Consent Decree

A. The School Board's Obligations and Compliance

The 1984 Consent Decree obligated the School Board to assist Grambling's efforts to desegregate its laboratory schools in only three (3) particular ways: to provide specified transportation, to share certain testing information, and to assist in efforts to attract white students. By virtue of the Consent Decree, the School Board consented to cooperate with the desegregation efforts of both Grambling and Louisiana Tech.

1. Provide Transportation for Specified Categories of Students

The 1984 Consent Decree required the School Board to provide transportation for four (4) categories of students in Lincoln Parish:

- (1) "The Lincoln Parish School Board will provide transportation for White students in the Ruston area who desire to attend the Alma J. Brown Laboratory School" [the Grambling laboratory school];⁷⁰

⁷⁰1984 Consent Decree, Ex. A at p. 5.

- (2) “Additionally, transportation will be provided by the Board for kindergarten pupils who choose to attend a full-day program [at Grambling];”⁷¹
- (3) “The School Board will provide adequate bus transportation for students who wish to attend [the Grambling summer school program];”⁷² and
- (4) “The Lincoln Parish School Board will provide transportation for students in outlying areas to attend the Alma J. Brown Laboratory School.”⁷³

Clearly, these provisions were intended as a remedial measure to encourage white students to attend the Grambling laboratory schools by providing transportation for the programs under the desegregation plan set out in the 1984 Consent Decree and *not* for the general provision of transportation. But, as Grambling records demonstrate, no white students have enrolled and, thus, no white students ever requested the transportation intended by these provisions. Nevertheless, the School Board has consistently provided free transportation for Grambling’s discretionary use and has stood ready to provide the specified transportation to enhance desegregation, if ever requested.

For many years, the School Board has provided Grambling with three (3) full-size buses owned and maintained by the School Board and three (3) drivers employed and fully compensated by the School Board.⁷⁴ A Grambling employee assigns its students to these buses, which dictates the routes the buses travel.⁷⁵ Additionally, the School Board has, upon request, permitted

⁷¹*Id.*

⁷²*Id.* at p. 12.

⁷³*Id.* at p. 15.

⁷⁴*See* Bell Declaration at ¶ 10, Ex. F.

⁷⁵*Id.*

Grambling to utilize buses for special events such as athletic contests.⁷⁶ The School Board provided this transportation via the MOU but, apparently, the provision and/or availability of transportation have not served as a positive tool for desegregating the Grambling laboratory schools.

Significantly, there are two (2) sound reasons why the School Board should be relieved of any further transportation obligation under Grambling's desegregation order. First, the School Board is required by State law to provide transportation to any Parish resident - black or white or other - who desires transportation to any accredited school in the Parish, including any of the Grambling laboratory schools.⁷⁷ The District has consistently utilized a procedure that allows any and all Parish residents to request and receive such transportation.⁷⁸ Because of this legal obligation, a court order to provide transportation for Grambling's benefit is unnecessary.

Secondly, it appears that the availability of transportation has been an ineffective desegregation remedy for Grambling's laboratory schools. The School Board has not only made available, at no cost to Grambling, the means for Grambling to provide transportation to the specified categories of students but also to provide transportation for even more students as it and/or the students' parents see fit. Even though the School Board has complied with its transportation obligations under the 1984 Consent Decree, the availability of free transportation has not resulted in the desired result of attracting white students to Grambling. Thus, because this remedy has not

⁷⁶*Id.*

⁷⁷LA.REV.STAT. §17:158.

⁷⁸Bell Declaration at ¶10, Ex. F.

been successful, the School Board should be relieved of further obligation to provide such services under the Consent Decree in favor of the District's state-imposed obligation to provide such transportation.⁷⁹

2. Share Specified Testing Information

The 1984 Consent Decree obligated Grambling to institute a gifted and talented program for students in kindergarten through twelfth grade.⁸⁰ With regard to the gifted and talented program at the kindergarten through sixth grade levels, the School Board was ordered to provide information, as follows:

The SRA Achievement Series is currently conducted by the Lincoln Parish School Board beginning at the second grade level. The School Board will share with the Alma J. Brown administration test information for the purpose of identifying potential or prospective participants [for Grambling's K-6 gifted and talented program].⁸¹

In 1984, the District did, in fact, utilize the referenced program; however, in compliance with changes in state-wide assessment tests directed by the Louisiana Department of Education, the District ceased using the SRA assessment program in the mid- to late 1980's, replacing it with the California Achievement Test which was later replaced with the IOWA (ITED) in the 1990's.⁸² Although achievement results were maintained as a matter of course over the years, such files -

⁷⁹See *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 25 (1971)(desegregation remedies are to be judged by their effectiveness); *Green*, 391 U.S. at 439 (an adopted desegregation remedial plan requires evaluation of effectiveness in practice); *United States v. Lawrence County Sch. Dist.*, 799 F.2d 1031, 1044-45 (5th Cir.1986)(ineffective desegregation remedies to be modified).

⁸⁰1984 Consent Decree, Ex. A at pp. 6-11.

⁸¹*Id.* at p. 8.

⁸²See Bell Declaration at ¶ 5, Ex. F.

including any requests to review or actual reviews of such files - have long since been either destroyed since all reasonable efforts to locate them have been unsuccessful.⁸³ Although records of requests or reviews of the testing data by Grambling cannot be located now, it can be positively stated that, during the twenty-seven (27) years since the Consent Decree was entered, the District did not ever prevent Grambling from requesting or reviewing the SRA or other testing data for the stated purpose.⁸⁴ In fact, had the District received a request, it would have been compelled to release such information pursuant to the Court's order but in accordance with the Family Educational Rights and Privacy Act ("FERPA").⁸⁵

It is anticipated that Grambling may argue that the District was required under this provision to take affirmative action to "share" information without request. However, if such was the intent of the provision, such intention was not apparent in the language and, undoubtedly, such a meaning was not understood by either entity since neither took any action to suggest such a meaning. The School Board would submit that its understanding of the provision is consistent with the strictures imposed by FERPA.

In accordance with FERPA, the District is authorized to permit access to an individual student's state testing results pursuant to this Court's order in the 1984 Consent Decree but must first make a reasonable effort to notify the parent in advance that the disclosure has been requested under

⁸³*Id.*

⁸⁴*Id.*

⁸⁵20 U.S.C. §1232g. School Board policies also set out the requirements of FERPA as they pertain to the release of education records, including testing data. *See* Policies, Exhibit J at pp. 3, 5.

the order. Also pursuant to FERPA, the District may and will permit access to students' directory information upon the request of the administration of Grambling and/or of any of its laboratory schools without the necessity of a court order. No such request has ever been made.

Under the circumstances, the School Board submits that it has complied with the obligation to make its testing data available to the Grambling administration for review. Unfortunately, the recent failure of the Brown administration to seek access may, in part, be due to a lack of knowledge of the Consent Decree provisions likely resulting from the high administrative turn-over rate at Grambling. Regardless, however, the District has consistently maintained a procedure by which the subject data could have been accessed.

3. Assist Grambling in Attracting White Students

The 1984 Consent Decree provided a general obligation for the School Board to "assist" Grambling, as follows:

...[T]he Lincoln Parish School Board will assist Alma J. Brown in attracting White students to the kindergarten program and to other special programs (i.e., gifted and talented) at Brown.⁸⁶

Again, the School Board anticipates that Grambling may argue that this provision charged the District to take affirmative action, without request from Grambling, to recruit or otherwise encourage white students to attend Grambling laboratory schools. No mandate for such instigation of action is indicated in the language of this provision and no such meaning can reasonably be inferred.

The School Board has been informed that Grambling will take the position that the School Board should be held responsible for affirmatively providing assistance, monetarily and otherwise,

⁸⁶1984 Consent Decree, Prior Orders, Ex. A at p. 16.

to Grambling because the School Board has not constructed a school in the city of Grambling thereby forcing students who live in the city of Grambling to attend the university laboratory schools. This argument is wholly without justification. First, at the same time the Fifth Circuit considered the addition of the laboratory schools to this action, it also soundly rejected a challenge to the School Board's decision not to build a school in the city of Grambling.⁸⁷ Secondly, the city of Grambling is within the Ruston attendance zone and students who reside in that community are free to, welcomed, and do attend District public schools in that zone. In sum, there is nothing more than rhetoric to support Grambling's inference that the District has "used" the Grambling laboratory schools as "the" public schools in the Grambling community. This argument, is made, should be soundly rejected by this Court as unsupported in fact and/or law.

Nevertheless, the District has responded when it has been requested to assist Grambling, whether specifically in regard to its desegregation efforts (such as transportation, etc.) or in general to assist in areas addressed by contractual agreement. The School Board voluntarily entered into contractual agreements with Grambling to provide, as detailed above, services and assistance necessary for the operation of the Grambling laboratory schools. The School Board submits that its good faith actions for the benefit of Grambling students and the laboratory school program evidences its continued assistance to Grambling; whether or not such services were utilized by Grambling in efforts to attract white students to its laboratory school program.

⁸⁷*Copeland*, 598 F.2d at 980-981.

4. Cooperate with the Universities' Desegregation Efforts

The 1984 Consent Decree appears to set out a general obligation for the School Board, Grambling, and Louisiana Tech in a provision entitled "Cooperation between the Three School Administrations", as follows:

The staff of A.E. Phillips Laboratory School [at Louisiana Tech] will cooperate with the officials of the Lincoln Parish School Board and the officials of the Alma Brown Laboratory School [at Grambling] in their efforts to implement each system's plan for desegregation [*sic*].⁸⁸

The School Board would submit that, over the twenty-seven (27) year life of the 1984 Consent Decree, no complaint has been made by any of the parties that the others did not cooperate each with the others as mandated by this provision. As discussed below, the School Board has continued to voluntarily act as the fiscal agent for the purpose of receipt and distribution of state and federal funding for both universities and to voluntarily continue to act in accordance with the respective MOU entered into with the universities for the benefit of the laboratory schools (as discussed more thoroughly below). Thus, the School Board submits that it has continually complied with the spirit of this general provision.

B. The School Board's Position in the Universities' Desegregation Efforts

As demonstrated, the School Board has fully complied, in good faith and to the extent practicable, with its obligations under the 1984 Consent Decree.⁸⁹ The School Board voluntarily agreed to provide the specified services in an effort to assist the university laboratory schools in their

⁸⁸*Id.* at p. 23.

⁸⁹The Status Report reports that there has been little or no movement toward unitary status in the laboratory school operations. The School Board has no independent documentation of and is not authorized to take a position as to the unitary status of either universities' laboratory schools.

respective desegregation efforts. A desegregation remedy, of course, is judged according to its effectiveness and modified - or abandoned - if ineffective.⁹⁰ If no positive movement toward desegregation has been made by either or both of the universities, as alleged by the DOJ, the voluntary interdistrict remedies evidently have not been put to effective use by the university. As detailed above, court-ordered interdistrict relief is not justified in this matter.

Furthermore and in any event, court-ordered relief is not necessary. The School Board is committed to providing nondiscriminatory educational opportunities for all children in its schools and is also committed to supporting nondiscriminatory educational opportunities for all children in Lincoln Parish, even those who choose to attend other institutions in the Parish, including the university laboratory schools. As an advocate of positive academic and extracurricular opportunities for all children, the School Board is willing and committed to assisting, upon request, both Grambling and Louisiana Tech with their respective desegregation efforts in such ways that do not impose a financial cost to the District and/or that do not disrupt the educational process in the District schools. The District's administration has informed the administrations of both university laboratory schools of this commitment and made the suggestions of ways that such support could be provided, as listed above. Again, the School Board submits that no court order is necessary for these types of requests to be fulfilled.

Grambling and Louisiana Tech - not the School Board - were given the right to seek, after three (3) years from implementation of the decree, a determination of compliance by themselves and

⁹⁰See *Swann*, 402 U.S. at 25; *Green*, 391 U.S. at 439; *Lawrence County*, 799 F.2d at 1044-45.

the School Board.⁹¹ However, the School Board would submit that there is no legitimate reason to delay consideration of a motion seeking the release of the School Board from further obligations under the current provisions of the 1984 Consent Decree. The School Board stands prepared to work cooperatively with the DOJ and the universities toward such a resolution.

IV. CONCLUSION

The documented facts set forth hereinabove demonstrate the lack of any authority, governance, or other control over either the Grambling or the Louisiana Tech laboratory schools in any *Green* factor area of operation. In every area, Grambling and Louisiana Tech each have such legal obligation as to their respective laboratory schools. The misconceived notion that the School Board is legally authorized to and responsible for all or part of the operation of these independent, state-owned, and state-operated institutions is based on a fundamental misunderstanding of the legal relationship between and among the entities in favor of the community's traditional desire and comprehension of that relationship.

While the community perspective derives from the admirable moral principle that all children in Lincoln Parish should have the same educational opportunity and so the School Board should take care of those students going to the university laboratory schools as well as the District students, the School Board has no legal authority to control what happens at the laboratory schools. The obligation to provide those Parish students who *choose* to go to a university laboratory school with the desired educational opportunities - including unitary school operations - rests squarely on the owners and operators of those schools: Grambling and Louisiana Tech.

⁹¹1984 Consent Decree, Ex. A at p. 25.

The desegregation issues applicable to the School Board, the Grambling laboratory schools, and the Louisiana Tech laboratory school, respectively, are distinctively different and not inter-related. None of the three has governing or operational authority over either of the others which could implicate a legal responsibility to desegregate any schools but their own. Thus, the School Board's compliance with the 1984 Consent Decree should be assessed only as to those obligations specifically assigned to the District. The School Board respectfully submits that the Court may choose, for judicial economy or otherwise, to keep the universities as defendant parties under this civil action number and that it should, in the interest of justice, bifurcate and hear separately the plaintiff's claims particular to each party.

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 17th day of October, 2011.

s/Pamela Wescovich Dill
Pamela Wescovich Dill