

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

UNITED STATES OF AMERICA
Plaintiff

CIVIL ACTION NO. 66-12071

v.

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

JUDGE ROBERT G. JAMES

Defendants

RESPONSE OF A. E. PHILLIPS LABORATORY SCHOOL
AT LOUISIANA TECH UNIVERSITY TO
THE UNITED STATES' STATUS REPORT
FILED MAY 24, 2011

Pursuant to this Court's August 3, 2011 Order, A. E. Phillips Laboratory School ("A. E. Phillips") at Louisiana Tech University ("Louisiana Tech") hereby submits its response to the United States' Status Report ("Report") filed May 24, 2011.

I. COMPLIANCE WITH CONSENT DECREE

A. E. Phillips is a stand-alone university laboratory school which for the 2011-12 school year has a student enrollment of 339 students. It is owned and administered by Louisiana Tech. Admission to A. E. Phillips is by a voluntary application process, and currently a per year tuition of \$1,740 per student supplements the school's public funding. Although in its amended complaint filed April 25, 1980 the United States alleged that A. E. Phillips had been "designated and was identifiable as a White School" (Consent Decree, page 3), undersigned counsel is unaware of an actual finding by the court of *de jure* segregation. If that is indeed the case, at this

point the significance of that fact is unknown. However, counsel believes that the court should be made aware of this issue. With respect to A. E. Phillips the Consent Decree is the agreement of the parties, confirmed by the court, to seek to *further* the desegregation process at the school. As an example, in 1985, the year after the decree was entered, black enrollment at A. E. Phillips was already 22.2%.

In any event A. E. Phillips has complied with the requirements of the 1984 Consent Decree. A. E. Phillips continues to be a "freedom of choice" school where black students are actively recruited. To the extent that black applicants apply they are given admission preference except for those applicants who already have a sibling enrolled in the school. A. E. Phillips believes that the quality of education it provides to its students is well known in Lincoln Parish. Unfortunately, through no lack of effort by A. E. Phillips, the number of black applicants has remained small. However, A. E. Phillips submits that with respect to the racial integration of its student body, it has complied in good faith with the 1984 Consent Decree, and that the vestiges of past discrimination, if any, have been eliminated to the extent practicable.

As indicated above, for the 2011-2012 academic year just beginning there are 339 students enrolled at A. E. Phillips. Of these 277 (81.7%) are identified as white, 49 (14.5%) are identified as black, 5 (1.5%) are identified as Hispanic and 8 (2.4%) are identified as Asian. The statistics for the most recent previous years for which records exist at A. E. Phillips are as follows:

2010-2011

333 Total Students; 277 (83.18%) white; 44 (13.21%) black; 4 (1.20%) Hispanic; 8 (2.40%)

Asian

2009-2010

331 Total Students; 277 (83.69%) white; 43 (12.99%) black; 6 (1.81%) Hispanic; 7 (2.11%)

Asian

2008-2009

327 Total Students; 277 (84.71%) white; 38 (11.62%) black; 6 (1.84%) Hispanic; 6 (1.84%)

Asian

2006-2007

263 Total Students; 228 (86.69%) white; 29 black (11.03%); 5 Hispanic (1.90%); 1 (.38%) Asian

2005-2006

261 Total Students; 223 (85.44%) white; 29 black (11.11%); 7 Hispanic (2.68%); 2 (.77%) Asian

2004-2005

267 Total Students; 226 (84.64%) white; 26 black (9.75%); 7 Hispanic (2.62%); 2 (.74%) Asian

Although the Supreme Court in *Freeman v. Pitts*, 503 U. S. 467, 112 S. Ct. 1430 (1993) was dealing with changing residential patterns as intervening demographic changes, its reasoning is also applicable to the case before this court. As the Court stated:

“Where resegregation is a product not of state action but of private choices, it does not have constitutional implications. . . . As the *de jure* violation becomes more remote in time and these demographic changes intervene, it becomes less likely that a current racial imbalance in a school district is a vestige of the prior *de jure* system. The causal link between current conditions and the prior violation is even more attenuated if the school district has demonstrated its good faith.” 503 U. S. at 495-496, 112 S. Ct. at 1448

In the instant situation twenty-seven years after entry of the Consent Decree and despite A. E. Phillips’ active recruitment of black students, it cannot compel black parents to complete an application for admission of their children to the school (a private choice). Neither can it compel those parents to pay the tuition necessary for the school to operate, again a private choice. Although scholarships for tuition are and have been available, their use has been limited.

Furthermore, to substantially increase the number of scholarships available would substantially increase the tuition burden on other students.

With respect to desegregating the teaching faculty at A. E. Phillips, the Consent Decree provides as follows: "It is anticipated that by 1985, several of these [previously identified] teachers will retire. Every effort will be made to recruit qualified Black teachers to apply for teacher vacancies as they occur at A. E. Phillips. Teachers will be hired based on non-discriminatory, race neutral criteria." (Consent Decree at page 23) Despite the active recruitment by A. E. Phillips of qualified black teachers, unfortunately the number of black teachers remains small. However, again A. E. Phillips submits that it has fully complied in good faith with the Consent Decree and that the vestiges of past discrimination, if any, have been eliminated to the extent practicable.

Background on the School

A. E. Phillips is a Kindergarten through 8th grade school housed on Louisiana Tech's campus in Ruston, Louisiana and owned and administered by Louisiana Tech. A. E. 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. A principle focus of A. E. Phillips is to serve as a site for Louisiana Tech education majors to observe and practice effective teaching strategies in a supportive environment. The attendance zone for A. E. Phillips is Lincoln Parish.

A. E. Phillips is ranked in the top ten schools in Louisiana, having received the "A+" designation for the 2010-11 school year. The faculty members have received numerous awards such as parish, regional, and state Teacher of the Year, Outstanding Young Educator, and the Milken Award. Approximately half of the teachers are certified by the National Board for

Professional Teaching Standards. A. E. Phillips' teachers are committed to the concept of lifelong learning, engaging in extensive professional development.

The mission of A. E. Phillips is to foster a learning community in which members become creative, self-directed, lifelong learners and effective citizens in a technological, global society. Most students enter the school in kindergarten through an application and screening process. For the 2011-2012 year, of the 97 applications for admission to kindergarten 35 were accepted. All of the black applicants, numbering 6, were accepted. For the year students were also added to other grades to replace students who had moved from the community, etc. For example 2 black applicants were added to the 7th grade class over all other applicants. Also a second sixth grade class was added to replace the second eighth grade class which matriculated to other schools. This additional class is composed of 26 students including the 3 black applicants who applied.

A. E. Phillips seeks students from extremely bright to the struggling learner. As a laboratory school affiliated with Louisiana Tech's College of Education, it is the school's desire to have a broad spectrum of students with which Louisiana Tech's pre-service teachers can work. As an example, it is difficult to teach someone to work with a struggling learner if there is not a struggling learner to observe. Every effort is made to include students of different racial/ethnic minorities and maintain a balance between boys and girls.

A. E. Phillips originally opened in September, 1917 at its original site and moved to its present site in September, 1969. Both sites were/are on Louisiana Tech's campus. The present school facility which is owned by Louisiana Tech is a one-story, air-conditioned brick structure built in 1968-69. Recent improvements to the facility have been provided from funds raised by the parents of A. E. Phillips' students.

As was indicated in Louisiana Tech's response to questions from the Justice Department, for the 2010-11 academic year 31% of the funds required to operate the school came from tuition paid by the parents of the students. For the current 2011-12 academic year the tuition requirement is \$1740. Currently three partial (one-half) scholarships have been extended, and those are to black students.

II. THE SEPARATENESS OF THE SCHOOL BOARD AND A. E. PHILLIPS

It is the understanding of undersigned counsel that counsel for the Lincoln Parish School Board will be filing a response setting forth the exact details of the relationship between the School Board and Louisiana Tech. Undersigned counsel has had extensive discussions with counsel for the School Board concerning the relationship. A. E. Phillips agrees with the School Board's analysis of the relationship, and for the sake of brevity will not repeat that analysis here. If, however, upon the School Board's filing of its response A. E. Phillips has any disagreement with the analysis as submitted, A. E. Phillips will seek leave of court to file a further response.

~~Suffice it to say that for any services provided to A. E. Phillips by the School Board the relationship between the two is contractual, and the School Board is compensated for the~~
services it provides. A. E. Phillips has always been an institution owned, controlled and operated by Louisiana Tech. The School Board has no authority to control what happens at A. E. Phillips, including the acceptance of students for admission and the hiring of teachers. Thus should any additional remedy be required with respect to A. E. Phillips such remedy should apply to A. E. Phillips on its own without involvement of other parties, except for cooperation as is required of the current Consent Decree.

III. CONCLUSION

For the reasons stated above A. E. Phillips submits that it has achieved unitary status and should be dismissed from this suit. However, as is indicated in the Report, A. E. Phillips has agreed to continue to negotiate in good faith with all parties to attempt to resolve any continuing issues out of court. Furthermore, A. E. Phillips has no objection to Judge James' continued supervision of this case.

Dated: October 17, 2011

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 e-mail.

MONROE, LOUISIANA, this 17th day of October, 2011.

s/W. Craig Henry

W. CRAIG HENRY