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FILED
 U.S. DISTRICT COURT
 EASTERN DISTRICT OF TEXAS

OCT 16 2001

DAVID J. MALONE, CLERK
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IN THE UNITED STATES DISTRICT COURT FOR THE
 EASTERN DISTRICT OF TEXAS
 TYLER DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 TEXAS EDUCATION AGENCY, et al.)
)
 Defendants,)
)
)

C.A. No. 6:70-CV-5193
 (Hannah)
 (Jefferson Indp. Sch. Dist)

AGREED ORDER OF DISMISSAL

In accordance with this Court's July 14, 2000 Consent Order ("order"), the Jefferson Independent School District ("District" or "JISD") submitted to the United States three reports - on or before October 16, 2000; February 15, 2001; and June 15, 2001 - detailing its progress under the order. In addition, the District provided additional reports at the request of the United States to supplement or clarify the District's efforts and obligations under the order. The District has submitted these reports to the Court, and they are provided herein and made a part of this Agreed Order of Dismissal.¹

On July 30, 2001, the United States notified the District, by letter, that supplemental information is required to conduct a

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¹ October 16, 2000 Report (Attachment A); Supplement to October 16, 2000 Report dated November 29, 2000 (Attachment B); February 15, 2001 Report (Attachment C); Supplement to February 15, 2001 Report dated March 29, 2001 (Attachment D); June 15, 2001 Report (Attachment E); Supplement to June 15, 2001 Report dated August 15, 2001 (Attachment F).

comprehensive review of the June 15, 2001 report. The parties requested an extension of time from the Court by letter dated August 6, 2001. On August 7, 2001, the Court informed the parties by letter that it will allow the United States until September 10, 2001, to submit written objections, if any, to the District's final report. On September 10, 2001, the United States notified the District by telephone that it will not object to the District receiving a declaration of full unitary status, dissolution of the prior decrees, and dismissal of the case.

The Court has considered the parties' Joint Motion for Approval of Agreed Order of Dismissal. Both parties have represented to the Court that all issues in dispute have been resolved by agreement and that the JISD has achieved full unitary status under the Court's prior desegregation orders and applicable federal law.

I. PROCEDURAL HISTORY

On August 7, 1970, the United States instituted a school desegregation suit against the Texas Education Agency and a number of local school districts, alleging that these local districts had failed to completely eliminate the dual system of public education and requesting that they be required to take immediate action to fully desegregate their schools. On August 26, 1970, a hearing was held by the district court concerning the Jefferson Independent School District and on August 28, 1970, the

Court entered an order directing the District to implement a plan of complete desegregation for the 1970-71 school year.

In its July 28, 1999 Show Cause Order, the Court, *sua sponte*, ordered the United States to show cause why the JISD and four other school districts should not be declared to have achieved unitary status and dismissed from federal court supervision. The United States filed a response requesting time for discovery to complete the required desegregation compliance evaluation of the JISD. On September 21, 1999, the Court set forth a discovery schedule, allowing for the United States to conduct a review of the District. Pursuant to the scheduling order, the District responded to two informal information requests from the United States. The United States conducted an on-site visit at each campus, interviewed district officials and employees, and met with black community members.

Based on the United States' review, the United States determined that the District had appeared to fulfill its desegregation obligations to the extent practicable in the areas of transportation, facilities and transfers. At an April 11, 2000 status conference, the Court found, without objection by the United States, that the District had achieved partial unitary status in these three areas.² During the status conference, the

²An order entered on April 12, 2000, reflected this finding by the Court.

United States expressed concerns in the areas of in-school assignment, including the gifted/talented program and advanced/vocational courses, special education, and discipline; and also expressed concerns with faculty hiring and attrition, extra-curricular activities, the Bi-Racial Committee and Site-Based Committees. To determine whether the District had removed vestiges of past discrimination to the extent practicable in all areas of concern raised by the United States, the Court, at its April 11, 2000 status conference, set an evidentiary hearing for July 19, 2000. On May 8, 2001, the District formally moved for a finding of unitary status and full dismissal of the case.

Following negotiations, the parties agreed to a one-year consent order, which the Court approved July 14, 2000. In the order, the JISD agreed to address the United States' concerns regarding the JISD's gifted and talented program, advanced and vocational classes, discipline, special education, faculty, extracurricular activities, Site-Based Committees, and the Bi-Racial Committee, and to file reports detailing the actions and initiatives taken. Pursuant to the order, the reports were to be made on October 16, 2000, February 15, 2001, and June 15, 2001. The order provided that if the United States did not have any desegregation-related concerns after reviewing the June 15, 2001 Report, it would not object to the District receiving a

declaration of full unitary status, dissolution of the prior decrees, and dismissal of the case.

II. LEGAL STANDARD

The standard established by the Supreme Court for determining whether a school district has achieved unitary status is: (1) whether the school district has fully and satisfactorily complied with the court's desegregation orders for a reasonable period of time, (2) whether the school district has eliminated the vestiges of past de jure discrimination to the extent practicable, and (3) whether the school district has demonstrated a good faith commitment to the whole of the court's order and to those provisions of the law and the Constitution that were the predicate for judicial intervention in the first instance. See Missouri v. Jenkins, 515 U.S. 70, 87-89 (1995); Freeman v. Pitts, 503 U. S. 467, 491-92, 498 (1992); Board of Educ. of Oklahoma City Pub. Sch. v. Dowell, 498 U.S. 237, 248-50 (1991).

The Supreme Court has identified six areas - student assignment, faculty and staff, transportation, extracurricular activities, and facilities, also known as the Green factors - which must be reviewed when determining whether a school district has attained unitary status. Green v. County Sch. Bd. of New Kent County, 361 U.S. 430, 435 (1968). The Green factors are not intended to be a "rigid framework"; other indicia, such as "quality of education," may be considered in determining whether

the District has complied with its desegregation obligations. See Freeman, 503 U.S. at 492-93.

Finally, courts must determine whether the school district has complied in good faith with the desegregation decree. Dowell, 498 U.S. at 249-50. A school board demonstrates "its good-faith commitment to a constitutional course of action when its policies form a consistent pattern of lawful conduct directed to eliminating earlier violations." Freeman, 503 U.S. at 491. Additionally, courts look to a school board's future plans when evaluating the school's promise to maintain an environment free of discrimination. Dowell v. Board of Educ. of Oklahoma City, 8 F.3d 1501, 1513 (10th Cir. 1993), quoting Brown v. Board of Educ., 978 F.2d 585, 592 (10th Cir. 1992).

Within this framework, the Jefferson Independent School District has met the required standards and is entitled to a declaration of unitary status and termination of this school desegregation case.

III. FINDING OF COMPLETE UNITARY STATUS

Evidenced by its efforts outlined in the attached Reports, the Court finds that the Jefferson Independent School District has complied with the spirit and intent of the Court's orders and demonstrated its good-faith commitment to desegregation. The Court also finds that the District's initiatives and plans for the future further demonstrate the District's good faith

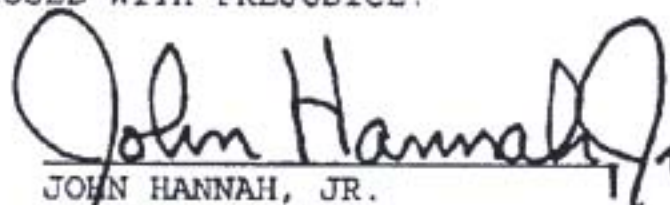
commitment to desegregation and that the students, parents and community can be justifiably confident that the JISD will not return to its former dual system.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

- A. JISD has achieved unitary status in all facets of its operation, including its gifted and talented program, advanced and vocational classes, discipline, special education, faculty, extra-curricular activities, the Bi-Racial Committee and Site-Based Committees.
- B. Vestiges of the once prior dual system in the JISD have been eliminated to the extent practicable.
- C. The District has fully complied with the applicable orders in this case.
- D. JISD has demonstrated to the public and to minority parents and students its good faith commitment to the whole of the Court's decree and to the appropriate provisions of the Constitution of the United States and federal law.

IV. COURT'S DECLARATION

Accordingly, this Court hereby ORDERS that all prior injunctions in this case are DISSOLVED, jurisdiction is TERMINATED and this case is DISMISSED WITH PREJUDICE.


JOHN HANNAH, JR.
UNITED STATES DISTRICT JUDGE
16th October 2001