

2015 WL 11465445

Only the Westlaw citation is currently available.  
United States District Court, E.D. Louisiana.

Joyce Marie MOORE, et al.

v.

TANGIPAHOA PARISH SCHOOL BOARD, et al.

CIVIL ACTION NO. 65-15556

|  
Signed 07/27/2015

#### Attorneys and Law Firms

Cassandra Butler, Law Office of Cassandra Butler LLC, Independence, LA, Gideon Tillman Carter, III, Gideon T. Carter, III, Attorney at Law, Nelson Dan Taylor, Sr., J. K. Haynes Legal Defense Fund, Baton Rouge, LA, James Austin Gray, II, James Austin Gray, II, Attorney at Law, New Orleans, LA, for Joyce Marie Moore, et al.

Jonathan Cunningham Augustine, Montgomery Barnett, Pamela Wescovich Dill, Robert L. Hammonds, Hammonds & Sills, Baton Rouge, LA, Andre Gerard Coudrain, Ashley Edwards Sandage, Cashe Coudrain & Sandage, Christopher M. Moody, Moody Law Firm, Hammond, LA, for Tangipahoa Parish School Board, et al.

#### ORDER AND REASONS

IVAN L.R. LEMELLE, United States District Judge

\*1 Before the Court is a Motion for Authority to Operate a Charter School in Tangipahoa Parish (Rec. Doc. No. 1255) by Tangipahoa Charter School Association (“TCSA”). Tangipahoa Charter School Association (“TCSA”) has been approved and awarded a contract by the Louisiana Board of Elementary and Secondary Education (“BESE”) to operate a Type 2 public charter school<sup>1</sup> (“Tangi Academy”) in Tangipahoa Parish. TCSA’s school will be open-enrollment, consistent with

La. Rev. Stat. Ann. § 17:3991(B)(3). The school will be of no cost to those who choose to attend. As a Type 2 public charter school, any child from the state of Louisiana can attend the school, regardless of Parish residence. Pursuant to La. Rev. Stat. Ann. § 17:3991(C)(3), TCSA is subject to any court-ordered desegregation plan imposed by this Court upon Tangipahoa Parish School Board (“TPSB”).

The Motion for Authority to Operate a Charter School raises four issues: (1) TCSA hiring impact on TPSB compliance with this Court’s desegregation order; (2) TCSA enrollment impact on TPSB compliance with this Court’s desegregation order; (3) operation of TCSA on TPSB’s financial obligations; (4) payment of plaintiffs’ attorneys’ fees incurred in relation to the instant Motion.

In considering the approval of a charter school subject to a desegregation order, the Court must consider the impact of the charter school on the overall school system, and assess whether authorization will undermine the remedial order and promote re-segregation. *See Cleveland v. Union Parish School Bd.*, 570 F.Supp.2d 858, 869 (W.D. La. July 16, 2008). For reasons discussed at oral argument,

**IT IS ORDERED** that the Motion is **GRANTED**, subject to the following conditions:

1. TCSA will meet the teacher assignment standard desegregation deviation that the Court applies to TPSB (+/- 10 to +/-20) of the district-wide teacher racial ratio.
2. TCSA will meet the student assignment standard desegregation deviation the Court applies to TPSB (+/- 15) of the district-wide student racial ratio.
3. TCSA will submit an annual report on or before October 15 each year that includes:
  - a. The name and race of each teacher employed for the respective school year; and
  - b. The name, race, 911 address, and grade for every student enrolled for the respective school year, and the school year in which each newly enrolled student was previously enrolled.
4. TCSA is liable for reasonable attorney’s fees incurred by TPSB and/or Plaintiffs in direct relation to the instant motion as follows: (1) parties shall submit two (2) sets of billing invoices— one for

costs incurred prior to approval of charter school operation, and another set of quarterly invoices seeking payment for any costs incurred following approval— sufficiently describing the legal services rendered; (2) these invoices shall be submitted to TCSA for payment; (3) contested attorney fee motions will be resolved by the Magistrate Judge.

**\*2** 5. TCSA shall forfeit the (2015-2016) *local portion* of MFP funds, reserving to TPSB the right to timely re-urge with supporting documentation annually.

The State of Louisiana provides funding for public schools through the minimum Foundation Program, which calculates the amount of funding to be distributed to the District via a formula that takes into account a number of considerations. Under the MFP, TPSB receives funds from the state on a per-pupil basis. TPSB expects total annual revenues of \$196,775,731, including \$110,752,939 in MFP funds (the remaining comes from the Sales & Use Taxes). TCSA contends it would receive MFP funding in the amount of \$7,851 per student, totaling approximately \$1.7 million, or less than 1% of TPSB's budget.

TPSB has filed the "Declaration of Bret Schnadelbach," in lieu of live testimony. Mr. Schnadelbach currently serves as Chief Financial Officer for the TPSB. He estimates that:

[b]ased on the student enrollment data provided by the TCSA, the projected total net financial impact to the District is an anticipated first year 2015-2016 loss of \$1,559,195. Based on the charter school's current enrollment data and reported future class sizes, the net financial impact per year is projected to increase to a loss of \$2,902,529 over the next 4 years, for a total 4 year projected net loss of \$9,322,950.<sup>2</sup>

The District will realize a minor reduction of expenditures as a result of students not enrolling...allowing a reduction of only 1 teacher at each school for a total savings of \$127,835...the total net impact on the District's funding due to the charter's operation is projected to increase to a loss of \$2,902,529 over the next 4 years, with a total anticipated 4 year loss projected to be \$9,322,950.

Mr. Schnadelbach estimates that: "[f]or the first year of the charter operation, its enrollment data shows 215 students who reside in the Parish (226 total students less 11 out-of-parish students), which would result in a

deduction of \$533,630."<sup>3</sup> TPSB conditions its consent to the operation of the charter school on the Board's retention of the per pupil local fund allocation that would otherwise be assessed in favor of Tangi Academy in the MFP formula.

Mr. Schnadelbach further contends that: "[s]ince 2010, the Board has experienced significant financial distress due primarily to the freezing of state funding which coincided with significant increases in mandated employee benefit costs for retirement and health care." Based on the foregoing, TPSB is facing serious financial constraints, and would suffer a loss of funding as a result of operation of the charter school, the extent of which may be severe, according to Mr. Schnadelbach:

The General Fund...is the chief operating fund of the school district used to account for all financial resources of the school district except for those required to be accounted for in another fund... the current fund balance is only 8.1% of the annual expected expenditures for the 2015-2016 school year, which is sufficient to cover only 14/6 days of school operations...The Board has experienced deficit spending in all of the last 6 years.<sup>4</sup>

**\*3** With the projected first year net financial impact of <\$1.6> million due to the charter school operation and with a projected General Fund ending fund balance of only 7/2% of the total expenditures, the Board will be forced to reduce existing magnet services provided to the students and parents of the District. The impact would be lessened if the Board did not lose state funding as a result of the local fund representation deduction...

TCSA has filed the affidavit of Lauren Chapman, CEO and School Leader of TCSA, in lieu of live testimony. According to Ms. Chapman, for the 2015-2016 school year, TCSA's Budget projects \$1,796,191 in MFP revenue.<sup>5</sup> TCSA anticipates Title I (\$68,606), Title II (\$12,757), IDEA B revenue (\$26,667), and federal food revenue (\$167,887), totaling \$2,121,762. TCSA's expenses total \$2,045,817. "[L]oss of any revenues...would necessitate cuts to those projected expenses...."<sup>6</sup> Those expenses include salaries, benefits, materials & supplies, equipment, purchased services (e.g. student transportation, food services), purchased property services, and purchased professional services.

However, TPSB would be facing a reduction in revenue as a result of this Court's approval of Tangi Academy. Notwithstanding, TCSA's MFP allocation represents less

than 1% of TPSB's budget, whereas TCSA's forfeiture of the entire MFP fund would constitute half of its revenue. TCSA shall forfeit the (2015-2016) *local portion* of MFP funds, reserving to TPSB the right to timely re-urge with supporting documentation annually. *See Cleveland v. Union Parish School Board*, 2009 WL 2476562 (W.D. La. 2008)(finding that the School Board would suffer a net loss of \$119,480.00, and imposing a condition on approval that the charter school forfeit \$100,000 of the local portion of the MFP funds). Thus, as a result of forfeiture, the Louisiana Department of Education would reduce its deduction of the Board's MFP funds. The foregoing is subject to revision by the Court based on data provided by Michael Bruno, CPA, presently tasked with assessing the financial status of TPSB and/or Tangipahoa Charter School System.

School, Tangi Academy, is **GRANTED**, subject to the standard deviation and annual reporting conditions, and upon the condition that TCSA forfeit the 2015-2016 local fund allocation upon a finding that TPSB would otherwise be subject to serious financial constraints, and further, upon the condition that TCSA is liable for reasonable attorneys' fees incurred by plaintiffs and TPSB in relation to the instant motion.

New Orleans, Louisiana, this 27th day of July, 2015.

#### All Citations

Not Reported in Fed. Supp., 2015 WL 11465445

In sum, the Motion for Authority to Operate Charter

#### Footnotes

<sup>1</sup> A type 2 Charter School is entitled to:

A. The state funded per pupil allocation received by the local district

B. Local revenues received during the prior year by the school district from the following sources:

aa. Sales and use taxes

bb. Ad valorem taxes

cc. Earnings from sixteenth section lands owned by the school district.

<sup>2</sup> Rec. Doc. No. 1287-1 at 6.

<sup>3</sup> Rec. Doc. No. 1287-1 at 6.

<sup>4</sup> Rec. Doc. No. 1287-1 at 8.

<sup>5</sup> Rec. Doc. No. 1288-6 at 2 (2015-2016 Budget).

<sup>6</sup> Rec. Doc. No. 1288-1 at 3.