

THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CASE NO. 4:70-cv-01616-MP

GULF COUNTY SCHOOL DISTRICT,  
et al.,

Defendants.

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**AGREED ORDER OF UNITARY STATUS AND DISMISSAL**

In January 2008, the United States initiated a review of the Gulf County School District (“GCSD” or “the District”). Based on a review of the information and data provided by the District and publicly available sources, the United States advised the District that, in its view, the Gulf County School District has fulfilled its affirmative desegregation obligations under the Fourteenth Amendment and applicable federal law, entitling the District to a declaration of unitary status. As indicated by the signatures of counsel below, the parties respectfully request that the Court approve this Agreed Order of Unitary Status and Dismissal, declaring that the District has achieved unitary status and dismissing this case against GCSD.

**I. PROCEDURAL HISTORY**

On July 9, 1970, the United States initiated this school desegregation suit against the Gulf County School District in the United States District Court for the Northern District of Florida.

August 21, 1970 Order (“August 1970 Order”). The Court issued an order on August 21, 1970 in which it adopted an amended desegregation plan proposed by the District, and the Court modified that plan in a November 2, 1970 Order. August 1970 Order; November 1970 Order. On August 18, 1976, the Court issued an order dissolving the regulatory injunctions imposed in the 1970 orders and permanently enjoining the District from taking actions tending to segregate students or faculty and imposing other requirements. August 18, 1976 Order. Since then, little litigation has occurred in this case.

In January 2008, the United States initiated a review of the case to assess the status of the District’s desegregation efforts and requested information from the District regarding, among other things, student assignment, faculty/staff assignment and hiring, transportation policies, extracurricular activities, and facilities. The District responded in March 2008.

## II. STIPULATED FACTS

### A. Student Assignment

During the 1967-68 school year, the Gulf County School District operated five schools and enrolled approximately 2,681 students, of which 74% were white and 26% were African-American. Enrollment in each school is demonstrated in the following chart.

school (grades enrolled)	white enrollment	black enrollment	total
G. Washington High (K-12)	0	501	501
Wewahitchka High (1-12)	556	87	643
Port St. Joe High (7-12)	627	68	695
Port St. Joe Elem (1-6)	597	44	641
Highlandview Elem. (1-6)	201	0	201
Totals:	1,981	700	2,681

Source: Dep’t of Health, Educ. & Welfare/Office of Civil Rights, Pub. and Elementary Schs. (Fall 1970).

By 1970, the all-black student enrolled George Washington High School was closed, and

its students were assigned to desegregated schools in the District. The predominately white Highland View Elementary School was closed at the end of the 1998-99 school year, and those students were assigned to Port St. Joe Elementary beginning with the 1999-2000 school year. Since that time, the District has operated six desegregated schools.

During the 2007-08 school year, the District operated six schools and enrolled approximately 2,131 student (excluding 48 students enrolled in the Gulf County Adult School). Enrollment in each District school during the 2007-08 school year is reflected in the following chart.

school (grades enrolled)	white enrollment	black enrollment	other enrollment	total
Wawahitchka High (9-12)	229 (84%)	35 (13%)	7 (3%)	271
Port St. Joe High (9-12)	315 (76%)	79 (19%)	22 (5%)	416
Port St. Joe Middle (6-8)	199 (77%)	48 (19%)	10 (4%)	257
Wawahitchka Middle (6-8)	203 (86%)	29 (12%)	5 (2%)	237
Port St. Joe Elem. (PreK-5)	404 (76%)	100 (19%)	28 (5%)	532
Wawahitchka Elem. (PreK-5)	365 (87%)	47 (11%)	6 (1%)	418
Totals:	1,715 (80%)	338 (16%)	78 (4%)	2,131

The preceding chart demonstrates that enrollment in each of the District's schools is racially balanced. None of the schools could be considered racially identifiable by virtue of its student enrollment. Furthermore, a review of classroom enrollment data demonstrates that classroom assignments are made on a non-discriminatory basis.

#### B. Faculty and Staff Assignment

In the 2007-08 school year, the District employed 154 teachers, 145 of whom were white (94%) and 9 of whom were African-American (6%). One of the District's two assistant principals was African-American, and one of the District's six District office administrators was

African-American. The District recruits at job fairs intended to attract minority candidates, and advertises in at least two publications targeting minority applicants. No EEO complaints have been filed against the District in, at least, the last three years.

C. Transportation

There is no evidence of discrimination in student transportation. GCSD provides transportation according to state guidelines and without regard to race.

D. Extracurricular Activities

There is no evidence of discrimination in extracurricular activities. Minority students were fairly well represented in all extracurricular organizations and sports teams.

E. Facilities

There is no evidence of discrimination in school construction, school consolidation, or site selection. All of the District's schools are racially balanced.

In sum, there is no evidence that vestiges of segregation remain in any facet of GCSD's operations.

### III. LEGAL ANALYSIS

It has long been recognized that the goal of a school desegregation case is to convert promptly a *de jure* segregated school system to a system without "white" schools or "black" schools, but just schools. *Green v. County Sch. Bd. of New Kent County, Va.*, 391 U.S. 430, 442 (1968). The standard established by the Supreme Court for determining whether a school district has achieved unitary status, thus warranting termination of judicial supervision, 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 which 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); *Bd. of Educ. of Okla. City Pub. Sch. v. Dowell*, 498 U.S. 237, 248-50 (1991).

The Supreme Court has identified six areas, commonly known as the "Green factors," which must be addressed as part of the determination of whether a school district has fulfilled its duties and eliminated vestiges of the prior dual school system to the extent practicable: (1) student assignment; (2) faculty; (3) staff; (4) transportation; (5) extracurricular activities; and (6) facilities. *Green*, 391 U.S. at 435; *see also Dowell*, 498 U.S. at 250; *Jenkins*, 122 F.3d at 591, n.3. The *Green* factors, however, are not intended to be a "rigid framework." The Supreme Court has approved consideration of other indicia, such as "quality of education," as important factors in determining whether a district has fulfilled its desegregation obligations. *See Freeman*, 503 U.S. at 492-93.

Based on the information and data provided by GCSD and on all the surrounding facts, the District has complied with the Court's desegregation orders for a reasonable period of time and has eliminated the vestiges of past *de jure* discrimination to the extent practicable. *See Freeman*, 503 U.S. at 491-92, 498; *Dowell*, 498 U.S. at 250; *Jenkins*, 515 U.S. at 87-89. Furthermore, the compliance by GCSD demonstrates a good faith commitment to the whole of this Court's orders and to those provisions of the law and the Constitution that were the predicate for judicial intervention in the first instance. *See Freeman*, 503 U.S. at 491. The Court concludes, therefore, that the District has met the legal standards for a declaration of unitary status, and that it is entitled to dismissal of this action.

Accordingly, it is hereby ORDERED that GCSD is hereby declared UNITARY, all prior injunctions in this case are DISSOLVED, jurisdiction is TERMINATED, and this case is DISMISSED WITH PREJUDICE. The case remains in place as to all other defendants.

**DONE AND ORDERED** this 3rd day of June, 2009

*s/Maurice M. Paul*

Maurice M. Paul, Senior District Judge