

THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS

|   |   |                           |
|---|---|---------------------------|
| UNITED STATES OF AMERICA,               | ) |                           |
|   | ) |                           |
| Plaintiff,                              | ) |                           |
|   | ) |                           |
|   | ) | CIVIL ACTION NO. H-70-832 |
|   | ) |                           |
| v.                                      | ) | Honorable Lynn Hughes     |
|   | ) |                           |
| TEXAS EDUCATION AGENCY, <i>et al.</i> , | ) |                           |
| (GALENA PARK INDEPENDENT SCHOOL         | ) |                           |
| DISTRICT),                              | ) |                           |
|   | ) |                           |
| Defendants.                             | ) |                           |
| _____                                   | ) |                           |

**AGREED ORDER FOR DISMISSAL**

The United States initiated a review of the Galena Park Independent School District (the "District"), which included an information request to the District. Based on a review of the information and data provided by the District, the United States advised the District that, in its view, the 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 for Dismissal, declaring that the District has achieved unitary status and dismissing this case against the District.

**I. PROCEDURAL HISTORY**

The United States initiated this school desegregation suit against the Texas Education

Agency and the District on August 7, 1970 in the United States District Court for the Southern District of Texas.

On August 21, 1970, this Court approved a desegregation plan that, among other things, required the District to (1) assign faculty and staff who work directly with children so that the ratio of black to white teachers in each school is “substantially the same” as the corresponding District elementary school or high school ratio, with no more than a 5% variance in each school (“5% variance provision”); (2) operate a non-segregated and otherwise non-discriminatory student transportation system; (3) consider the effect that school construction, school consolidation, and site selection have on the desegregation process; (4) implement an inter-district student transfer policy where the cumulative effect of such transfers will not reduce desegregation; (5) conduct all curricular and extracurricular activities on a non-discriminatory basis; (6) assign students to schools with an attendance zone system; and (7) create a court-approved bi-racial committee charged with reviewing the student transportation system, selecting new school sites, and submitting bi-annual reports to the Court. Consent Decree, Aug. 21, 1970 (“1970 Order”).

On June 30, 1998, this Court found that the District had “substantially complied with the reporting requirements” of the 1970 Order and vacated the reporting requirement. Supplemental Decree, Jun. 30, 1998, at 1-2.

In July 2005, to assess the status of the District’s desegregation efforts, the United States initiated a review of the case and requested information from the District regarding, among other things, student assignment, faculty/staff assignment and hiring, transportation policies, extracurricular activities, and facilities.

## II. STIPULATED FACTS

### A. Student Assignment.

In the 1970-71 school year, the District enrolled a total of 11,942 students of whom 9% were black, 4% were Hispanic, 86% were white, and 1% were other in 14 schools as illustrated below:

**District Student Enrollment  
1970-71 School Year**

| <i>Schools</i>                         | <i>Black</i> | <i>White</i> | <i>Hispanic</i> | <i>Other</i> | <i>Total</i> |
|--|--------------|--------------|-----------------|--------------|--------------|
| Cimmarron Elementary School (K-6)      | 8 (1%)       | 701 (97%)    | 8 (1%)          | 2 (1%)       | 719          |
| Cloverleaf Elementary School (K-6)     | 1 (1%)       | 742 (94%)    | 42 (5%)         | 0 (0%)       | 742          |
| Galena Park Elementary School (1-6)    | 147 (23%)    | 444 (68%)    | 53 (8%)         | 3 (1%)       | 647          |
| Green Valley Elementary School (1-6)   | 15 (2%)      | 569 (95%)    | 17 (3%)         | 0 (0%)       | 601          |
| Jacinto City Elementary School (1-6)   | 117 (12%)    | 745 (78%)    | 90 (10%)        | 0 (0%)       | 952          |
| MacArthur Elementary School (1-6)      | 127 (22%)    | 392 (70%)    | 43 (8%)         | 0 (0%)       | 562          |
| North Shore Elementary School (1-6)    | 0 (0%)       | 939 (98%)    | 21 (2%)         | 0 (0%)       | 960          |
| Pyburn Elementary School (1-6)         | 129 (21%)    | 484 (77%)    | 5 (1%)          | 5 (1%)       | 623          |
| Woodland Acres Elementary School (1-6) | 0 (0%)       | 245 (80%)    | 63 (20%)        | 0 (0%)       | 308          |
| Galena Park Junior High (7-9)          | 181 (19%)    | 699 (74%)    | 62 (6%)         | 5 (1%)       | 947          |
| Woodland Acres Junior High (7-9)       | 0 (0%)       | 245 (80%)    | 63 (20%)        | 0 (0%)       | 308          |
| North Shore Junior High (7-9)          | 13 (1%)      | 1,558 (96%)  | 34 (2%)         | 2 (1%)       | 1,607        |
| Galena Park Senior High (10-12)        | 251 (19%)    | 1,033 (77%)  | 43 (3%)         | 4 (1%)       | 947          |
| North Shore Senior High (10-12)        | 17 (1%)      | 1,226 (96%)  | 24 (2%)         | 4 (1%)       | 1271         |

| <i>Schools</i> | <i>Black</i> | <i>White</i> | <i>Hispanic</i> | <i>Other</i> | <i>Total</i> |
|----------------|--------------|--------------|-----------------|--------------|--------------|
| District-Wide  | 1,099 (9%)   | 10,286 (86%) | 529 (4%)        | 34 (1%)      | 11,942       |

Source: Dep't of Health, Educ. & Welfare/Office of Civil Rights, Pub. and Elementary Schs. (1970-71).

In the 2005-06 school year, the District enrolled a total of 21,162 students of whom 22% were black, 68% were Hispanic, 9% were white, and 1% were other in 22 schools as illustrated below:

**District Student Enrollment  
2005-06 School Year**

| <i>Schools</i>                             | <i>Black</i> | <i>White</i> | <i>Hispanic</i> | <i>Other</i> | <i>Total</i> |
|--|--------------|--------------|-----------------|--------------|--------------|
| Cimmarron Elementary School (PK-5)         | 52 (5%)      | 155 (16%)    | 768 (78%)       | 4 (1%)       | 980          |
| Cloverleaf Elementary School (PK-5)        | 12 (1%)      | 50 (6%)      | 835 (93%)       | 2 (0%)       | 899          |
| Freedom Elementary School (PK-5)           | 261 (53%)    | 42 (9%)      | 151 (31%)       | 26 (7%)      | 490          |
| Galena Park Elementary School (PK-5)       | 43 (7%)      | 27 (4%)      | 569 (89%)       | 0 (0%)       | 639          |
| Green Valley Elementary School (PK-5)      | 297 (31%)    | 74 (8%)      | 584 (61%)       | 10 (1%)      | 965          |
| Havard Elementary School (PK-5)            | 338 (42%)    | 84 (11%)     | 353 (44%)       | 22 (3%)      | 797          |
| Jacinto City Elementary School (PK-5)      | 19 (2%)      | 43 (5%)      | 797 (92%)       | 1 (1%)       | 860          |
| MacArthur Elementary School (PK-5)         | 32 (4%)      | 51 (6%)      | 713 (90%)       | 0 (0%)       | 796          |
| Normandy Crossing Elementary School (PK-5) | 329 (49%)    | 32 (5%)      | 300 (44%)       | 16 (2%)      | 677          |
| North Shore Elementary School (PK-5)       | 52 (5%)      | 143 (14%)    | 785 (80%)       | 2 (1%)       | 982          |
| Purple Sage Elementary School (PK-5)       | 252 (32%)    | 22 (3%)      | 492 (63%)       | 14 (2%)      | 780          |
| Pyburn Elementary School (PK-5)            | 11 (1%)      | 35 (6%)      | 584 (92%)       | 3 (1%)       | 633          |
| Tice Elementary School (PK-5)              | 255 (39%)    | 20 (3%)      | 374 (57%)       | 5 (1%)       | 654          |

| <b><i>Schools</i></b>                   | <b><i>Black</i></b> | <b><i>White</i></b> | <b><i>Hispanic</i></b> | <b><i>Other</i></b> | <b><i>Total</i></b> |
|---|---------------------|---------------------|------------------------|---------------------|---------------------|
| Woodland Acres Elementary School (PK-5) | 23 (5%)             | 14 (3%)             | 393 (91%)              | 4 (1%)              | 434                 |
| Cobb Sixth Grade Campus (6)             | 322 (29%)           | 107 (10%)           | 661 (60%)              | 20 (2%)             | 1,110               |
| Galena Park Middle School (6-8)         | 51 (5%)             | 51 (6%)             | 780 (88%)              | 4 (1%)              | 886                 |
| Cunningham Middle School (7-8)          | 469 (50%)           | 40 (4%)             | 405 (43%)              | 25 (3%)             | 939                 |
| Woodland Acres Middle School (6-8)      | 34 (7%)             | 26 (4%)             | 416 (87%)              | 1 (1%)              | 477                 |
| North Shore Middle School (7-8)         | 221 (17%)           | 185 (14%)           | 866 (67%)              | 23 (2%)             | 1,295               |
| Galena Park High School (9-12)          | 147 (8%)            | 108 (6%)            | 1,454 (85%)            | 3 (1%)              | 1,712               |
| North Shore High School (9-11)          | 746 (34%)           | 256 (12%)           | 1,142 (52%)            | 47 (2%)             | 2,191               |
| North Shore Senior High School (11-12)  | 633 (32%)           | 271 (14%)           | 1,003 (51%)            | 59 (3%)             | 1,966               |
| <b>District-Wide</b>                    | <b>4,599 (22%)</b>  | <b>1,836 (9%)</b>   | <b>14,426 (68%)</b>    | <b>301 (1%)</b>     | <b>21, 162</b>      |

Source: District Resp. to Info. Req. (Nov. 21, 2005).

As demonstrated above, there has been significant demographic change in the District, with the black student population increasing from 9% to 22%, the white student population decreasing from 86% to 9%, and the Hispanic student population increasing from 9% to 68%.

The District does not enroll a significant number of out-of-district students. For the 2004-05 and 2005-06 school years, approximately 1% of the District's enrollment was from inter-district transfers.

The District has dismantled its former dual system; it currently has no one-race or virtually all-black or all-white schools. Only a single school is majority black – Freedom Elementary – and that school's white student enrollment reflects the districtwide average. There are no majority white schools. Indeed, the highest percentage white at any school is 16%.

B. Faculty and Staff Assignment.

In the 1970-71 school year, the District employed a total of 470 teachers of whom 12% were black, 87% were white, and 1% were Hispanic. In the 2005-06 school year, the District employed 1,518 teachers of whom 23% were black, 52% were white, 22% were Hispanic, and 3% were Asian. The District has substantially complied with the 5% variance provision of the Aug. 1970 Order and assigns faculty and staff such that no school can be identified as a “black” or “white” school.

C. Transportation.

There is no evidence of discrimination in student transportation.

D. Extracurricular Activities.

There is no evidence of discrimination in extracurricular activities.

E. Facilities.

There is no evidence of discrimination in school construction, school consolidation, and site selection.

In sum, there is no evidence that vestiges of segregation remain in any other facet of the District’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 Dowell*, 498 U.S. at 250; *Jenkins*, 122 F.3d at 591, n.3. But the *Green* factors 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 the District has fulfilled its desegregation obligations. *See Freeman*, 503 U.S. at 492-93.

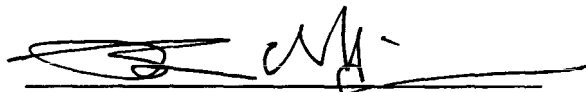
Based on the information and data provided by the District and on all the surrounding facts, the District has complied with the Court's desegregation orders for a reasonable period of time and has eliminated the vestiges of past *de jure* discrimination to the extent practicable. *Freeman*, 503 U.S. at 491-92, 498; *Dowell*, 498 U.S. at 250; *Jenkins*, 515 U.S. at 87-89.

Furthermore, the compliance by the District 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 predicate

for judicial intervention in the first instance. *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 the District is hereby declared UNITARY, all prior injunctions in this case are DISSOLVED, jurisdiction is TERMINATED, and this case is DISMISSED WITH PREJUDICE against the District only. The case remains in place as to all other defendants.

*Seemed*  
~~ENTERED THIS~~            DAY OF April 13, 2006.

  
United States District Judge

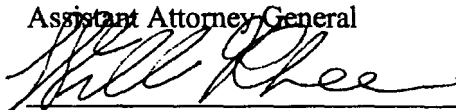
The following signatures of the parties indicate their consent to the form and content of this order.

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November 27, 2006