Laura Uberti **Hughes**

Civil Rights Injunctions Seminar

May 18, 2007

Litigation Trends in the Desegregation of Higher Education

Desegregation of the American educational system might seem, to a casual observer, an issue long ago resolved. Indeed, the landmark *Brown v. Board of Education*,[1] decided in 1954, is now more than two generations in the past, and the idea of racial separation in the public school system, except for the remaining few who experienced it, an abstraction far removed from reality. However, *Brown* represents only the most commonly known school desegregation case. In fact, the rise of the desegregation era began decades before *Brown*, with cases focused on institutions of higher education.

The quest for equality of educational opportunity was an issue of litigation starting in 1849,[2] and it continues through the present.[3] Important desegregation strategies were employed at the college and university level even before *Brown* litigation in the early 1950s. In fact, the desegregation of higher education is, in and of itself, a separate but related history of struggle for equal educational opportunity.

Well before the famous *Brown* case, black plaintiffs brought federal lawsuits in an effort to secure the right to post-secondary education; they had limited success. While plaintiffs won in a few well-known cases, such as *Sweatt v. Painter*,[4] only the named plaintiffs were granted admission to the institution. Next, the Supreme Court's *Brown* decision helped to create a

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[1] 347 U.S. 483 (1954).
[2] Roberts v. Boston, 59 Mass. (5 Cush.) 198 (1849).
[3] *See, e.g.*, Knight v. Alabama, 476 F.3d 1219 (11th Cir. Jan 31, 2007).
[4] See *infra* Part II.

second wave of litigation. Later, the 1964 Civil Rights Act[5] gave rise to federal enforcement of desegregation orders.[6] It has been through the courts more than any other mechanism that desegregation of higher education has been attained.

Litigation has played a significant role in achieving desegregation at the post-secondary level, but it is only one of many factors contributing to the current state of the educational system. Legislation, public policy, politics, public opinion, and cultural acceptances have also influenced the history of desegregation, and they inform some litigation strategies. The focus of this paper is on the litigation of significant cases brought with the goal to achieve desegregation at the higher education level, but some of the complementary historical aspects of the struggle are also included, such as the Morrill Act of 1890 and Title VI of the Civil Rights Act of 1964. These references to legislation give context to the cases discussed.

This paper will address the most significant aspects of litigation surrounding the desegregation of higher education, focusing on the twentieth century. Part II explains some of the earliest developments, including *Sipuel*, *McLaurin*, and *Sweatt*. Next, Part III discusses the impact of the landmark *Brown* decision and the *Hawkins* case, which explicitly interpreted *Brown* to address higher education as well as primary and secondary. Part IV discusses post-*Brown* federal enforcement, including the Civil Rights Act of 1964 and the *Adams v. Richardson* case. Finally, Part V is a case study of *Knight v. Alabama*, one of the latest cases brought against a public state university system.

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[5] Pub. L. 88-352, 78 Stat. 241, Jul. 2, 1964.
[6] *See infra*, Part IV.

Part II: Pre-*Brown* litigation

The first stage of blacks' attempt to receive a post-secondary education could be characterized simply as prohibition:[7] blacks received no education, let alone at a post-secondary level. In fact, before emancipation, educating chattel or their offspring was a criminal offense.[8] Prior to the Civil War, only one case, *Roberts v. Boston*,[9] documented an attempt to sue for the right to attend a school. *Roberts* involved a five-year-old girl who was forced to walk past four viable elementary schools on her way to the school for blacks.[10] The suit was dismissed.[11]

After the Civil War, a few educational options, though very limited, developed. Only Oberlin College in Ohio[12] and Berea College in Kentucky operated integrated schools.[13] The Morrill Act of 1890[14] prohibited payments of federal funds to states that discriminated against blacks in the admission to tax-supported colleges or who refused to provide "separate but equal" facilities.[15] Notably, some scholars believe this latter provision actually contributed to "cementing" and even "expanding" the separate but equal doctrine.[16] Nevertheless, most historically black colleges and universities (HCBUs) were developed during this period.[17] And

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[7] SAMUEL L. MYERS, SR., DESEGREGATION IN HIGHER EDUCATION 1 (NAFEO Research Institute ed., University Press of America,1989).
[8] M. Christopher Brown II, *Collegiate Desegregation as Progenitor and Progeny of Brown v. Board of Ed: The Forgotten Role of Postsecondary Litigation, 1908-1990*, 73 J. NEGRO ED. 341 (2004).
[9] *See supra* note 2.
[10] *Id. See also* RICHARD PAUL CHAIT, THE DESEGREGATION OF HIGHER EDUCATION: A LEGAL HISTORY 21 (University Microfilms, Inc. 1988) (University of Wisconsin dissertation 1972).
[11] Roberts, 59 Mass. (5 Cush.) 198 (1949).
[12] SAM P. WIGGINS, THE DESEGREGATION ERA IN HIGHER EDUCATION 2 (McCutchan Publishing Corp., 1966).
[13] M.C. Brown, *supra* note 8, at 342.
[14] 7 U.S.C. §322 et. seq., 26 Stat. 417 (1890).
[15] M.C. Brown, *supra* note 8, at 341.
[16] *Id.* at 342.
[17] Myers, *supra* note 7, at 2.

in the Supreme Court, *Plessy v. Ferguson*[18] upheld the constitutionality of the separate but equal doctrine. The notable cases brought in this era included *Cumming v. Richmond Board of Education*,[19] which sanctioned *de jure* racial segregation in schools, and *Berea College v. Commonwealth*,[20] which upheld a Kentucky statute prohibiting blacks and whites to be educated together. The effect of the *Berea* decision was that blacks enrolled at Berea College, already one of the only institutions where they were permitted admission, were dismissed.[21] Finally, in *Booker v. Grand Rapids Medical School*,[22] the Michigan Supreme Court allowed the School to refuse to enroll a black student for a second year because of his race, noting that the school "ha[d] the right to select such students to attend. . .as it shall see fit."[23]

In 1910, the creation of the National Association for the Advancement of Colored People (NAACP), under the direction of W.E.B. DuBois, provided a collective action organization for blacks focused on legal tests of discrimination.[24] Beginning in the 1930s,[25] the NAACP, through its Legal Defense Fund (LDF), began its campaign to end, through litigation, segregated education.[26] Specifically, it targeted its suits toward the collegiate level because no express provision for separate facilities had been made for them.[27] LDF considered challenging the

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[18] 163 U.S. 537 (1896).
[19] 175 U.S. 538 (1899).
[20] 211 U.S. 45 (1908).
[21] Chait, *supra* note 10, at 56.
[22] 120 N.W. 589 (Mich. 1909).
[23] *Id.* at 590.
[24] Chait, *supra* note 10, at 63. *See generally* MARK V. TUSHNET, THE NAACP'S LEGAL STRATEGY AGAINST SEGREGATED EDUCATION, 1925-1950, (University of North Carolina Press 1987).
[25] Tushnet, *supra* note 24, at 13. In May, 1930, the American Fund for Public Service presented a grant to the NAACP to develop a legal and educational campaign for blacks. *Id.*
[26] M.C. Brown, *supra* note 8, at 342.
[27] Wiggins, *supra* note 12, at 2. *See also* Tushnet, *supra* note 24; JEAN L. PREER, LAW AND SOCIAL POLICY: DESEGREGATION IN PUBLIC HIGHER EDUCATION (VOL. I AND II) 71-84 (University Microfilms International, 1988) (George Washington University, dissertation 1982),

constitutionality of *Plessy* directly, but given the social climate of the 1930s, that strategy was considered precarious: LDF did not sense that the Supreme Court was yet prepared to retract the separate but equal doctrine.[28] Instead, it focused on cases that would offer immediate results for blacks, such as securing equal educational opportunities under the separate but equal theory.[29] LDF brought cases at the federal level in order to avoid regional inconsistencies and controversies.[30] This strategy was based on the calculation that states would prefer to admit blacks to all-white institutions rather than spend money creating separate programs for blacks only.[31]

LDF conducted litigation in several states,[32] which in most cases challenged rejections of admission to post-secondary institutions for individual black plaintiffs. Five key cases reached the Supreme Court that were developed from LDF's litigation strategy. It is those cases that challenged segregation at the post-secondary level, which helped to set the stage for *Brown* to follow twenty years later.[33]

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describing LDF's considerations in detail and analyzing Nathan C. Margold's reports of his litigation strategy. *Id.* LDF hired Margold to direct the campaign. *Id.* at 72. His colleagues at LDF, Charles Houston and Thurgood Marshall, would later litigate the higher education cases, while he worked on public elementary and secondary schools. *Id.* at 82.

[28] KENNETH GILREATH, CRITICAL ANALYSIS OF LAW AND LITIGATION IN THE DESEGREGATION OF HIGHER EDUCATION 34-35 (UMI Microform Company, 1998) (University of South Florida, dissertation 1998).

[29] *Id.* at 36; Preer, *supra* note 27, at 78.

[30] Gilreath, *supra* note 28, at 36.

[31] Preer, *supra* note 27, at 199.

[32] *See, e.g*; Bd. of Superiors of La. State Univ. v. Wilson, *aff'd per curiam*, 340 U.S. 909 (1951); Turead v. Louisiana State College, 347 U.S. 971 (1954); Johnson v. Bd. of Trustees of Univ. of Ky., 83 F. Supp. 707 (E.D. Ky. 1949); Epps v. Carmichael, 93 F. Supp. 327 (M.D.N.C. 1950); Wrighten v. Bd. of Trustees, 72 F. Supp. 948 (E.D.S.C. 1947); Wichita Falls Junior College Dist. v. Battle, 101 F. Supp. 82 (N.D. Tex. 1951); Parker v. Univ. of Delaware, 75 A.2d 225 (Del. 1950); McCready v. Byrd, 73 A. 2d 8 (Md. 1950); State *ex. rel.* Toliver v. Board of Ed, 230 S.W. 2d 724 (Mo. 1950).

[33] *See* M.C. Brown, supra note 8, at 343. *Brown*, another case brought by the NAACP's LDF, was the culmination of the NAACP's efforts to achieve desegregation through litigation.

The first major case, *Murray v. Pearson*[34] challenged the prevailing practice of some states, especially in the South, to evade blacks' attempts to gain admission to state universities. Where the separate black college lacked a program that an applicant desired to study, states would give scholarships to blacks to study out of state, rather than let them into, and therefore integrate, the in-state program at the white institution.[35] Murray was denied acceptance to the University of Maryland law school, but the Board of Regents offered to pay his tuition at an out-of-state institution.[36] Murray challenged the decision in Maryland state court under the Fourteenth Amendment's equal protection clause,[37] and the Maryland Court of Appeals ruled in his favor, ordering his admission to the university.[38]

The next case, *Missouri ex rel. Gaines v. Canada*,[39] was the first NAACP education litigation to reach the Supreme Court; its facts were similar to those in *Murray*, and the plaintiff's challenge was again equal protection. Gaines sought admission to the University of Missouri law school.[40] He denial was accompanied by an offer to have his tuition paid at an out-of-state university, or to have a law school established at the all-black Lincoln University.[41] The Supreme Court found for Gaines, holding that this treatment violated the Fourteenth Amendment.[42] However, the Court noted that this Gaines's challenge was "a personal one" and limited the scope of its decision to Gaines himself, not to all blacks.[43]

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[34] 182 A. 590 (1936).
[35] Chait, *supra* note 10, at 67; Preer, *supra* note 27, at 86; Wiggins, *supra* note 12, at 2-3.
[36] *See also* Chait, *supra* note 10, at 67-69.
[37] *Murray*, 182 A. at 590. *See also* M.C. Brown, *supra* note 8, at 343; Preer, *supra* note 27, at 87.
[38] *Murray*, 182 A. at 594.
[39] 305 U.S. 337 (1938).
[40] Gaines, 305 U.S. at 342.
[41] Gaines, 305 U.S. at 342-343; *see* Preer, *supra* note 27, at 105-109.
[42] Gaines, 305 U.S. at 352.
[43] Gaines, 305 U.S. at 351.

Gaines, despite the victory for the plaintiff, illustrated a tension in LDF's legal strategy. Its complementary goals of improving educational opportunities and of eliminating the separate but equal structure were at risk of becoming mutually exclusive under the reasoning of *Murray* and *Gaines*: In both of those cases, if an in-state, all-black institution had offered a law program, the plaintiffs' cases for entrance into the all-white, albeit superior, program, would have been dramatically diminished.[44] In fact, after the *Gaines* decision, Missouri established a law school at Lincoln University.[45]

LDF brought three *Gaines* companion cases to the Supreme Court before it decided *Brown* in 1954: *Sipuel,*[46] *Sweatt,* [47] and *McLaurin.*[48] Each of these cases invoked the Fourteenth Amdendment to compel the plaintiff's admission to a graduate school. In *Sipuel*, the NAACP characterized *Gaines* as weak, since it gave the impression that the Court would sanction a state's reliance on the separate but equal doctrine if a separate school was available.[49] In advancing this argument, the NAACP pushed the Court to reject the segregation itself. The court responded with an unsigned, *per curiam* opinion ordering the plaintiff to be admitted to the University of Oklahoma law school.[50]

LDF further expanded its arguments against the separate but equal doctrine in *Sweatt* and *McLaurin*. It emphasized the inadequacies of black schools, including faculty, funding, and class sizes.[51] Here, the Court was forced to consider not the difference between "something and

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[44] Preer, *supra* note 27, at 115, 129-130.
[45] *Id.* at 114.
[46] Sipuel v. Board of Regents of the University of Oklahoma, 332 U.S. 631 (1948).
[47] Sweatt v. Painter, 339 U.S. 629 (1950).
[48] McLaurin v. Board of Regents of the University of Oklahoma, 339 U.S. 637 (1950).
[49] Preer, *supra* note 27, at 168. *See* JACK GREENBERG, CRUSADERS IN THE COURTS: LEGAL BATTLES OF THE CIVIL RIGHTS MOVEMENT 71-79 (Twelve Tables Press, 2004).
[50] Sipuel, 332 U.S. at 631.
[51] Preer, *supra* note 27, at 213, 217.

nothing, but between white and black."[52] The Court found for the plaintiffs, relying on educational considerations.[53] While it did not reject segregation, the Court noted that here, "petitioner may claim his full constitutional right: legal education equivalent to that offered by the State to students of other races. Such education is not available to him in a separate law school as offered by the State."[54] Similarly, in *McLaurin*, the Supreme Court addressed race-based different treatment as an effect of segregation. There, the plaintiff was admitted to a doctoral program at the University of Oklahoma, but he was forced to sit away from his white classmates in an anteroom.[55]

These cases, while limited in their scope, do demonstrate progress for the recognition of blacks' right to equal opportunity in education. As discussed below, *Brown*'s denunciation of segregation expanded that right much further. Notably, it was these often lesser-known higher education cases that provided precedent for the landmark *Brown* decision.

Part III: *Brown* and its application to higher education

When the NAACP decided to pursue its litigation campaign in 1930, it retained Nathan C. Margold to direct the litigation strategy.[56] The approach outlined in the Margold Reports suggested attacking segregation through the use of taxpayer suits, which would seek to equalize expenditures in white and black schools.[57] However, when attorneys Charles Houston and Thurgood Marshall became involved in the litigation campaign, they focused on higher

[52] Preer, *supra* note 27, at 220.
[53] Sweatt, 339 U.S. at 634.
[54] *Id.* at 635.
[55] McLaurin, 339 U.S. at 640.
[56] Preer, *supra* note 27, at 72.
[57] *Id.* at 72-74.

education.[58] At that level, blacks were barred completely from some graduate and professional courses.[59] They hoped for immediate admission of those plaintiffs as a first step in equalizing education.[60]

The use of individual black plaintiffs who sought immediate admission to post-secondary institutions, and the success of those cases, as discussed in Part II, was also LDF's strategy in *Brown v. Board of Education.* In *Brown*,[61] a class of plaintiffs sought to reverse racial segregation in the Kansas City school system, which reflects Houston's and Marshall's higher education litigation strategy.[62] In *Brown*, the Supreme Court's landmark decision declared the separate but equal doctrine to be unconstitutional.[63] The court there relied on the "intangible" factors in educational opportunities,[64] applying arguments made in *Sweatt* and *McLaurin* to the public school system.[65] "To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone."[66]

Brown's mandate to desegregate the public school system failed to give guidelines for how to make the transition. A year later, the Supreme Court issued a second decision, *Brown II*,[67] which, in recognition of the "varied local school problems"[68] in achieving full compliance,

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[58] Preer, *supra* note 27, at 82. "Where [Nathan C.] Margold concentrated on public schools, [Charles] Houston and [Thurgood] Marshall began with higher education." *Id.* at 82. *See also* Tushnet, *supra* note 24, at 40.
[59] Preer , *supra* note 27, at 82.
[60] *Id.* at 82.
[61] 347 U.S. 482 (1954).
[62] *Id.*
[63] Brown, 347 U.S. at 495.
[64] *Id.* at 493.
[65] *Id.* at 493-494.
[66] *Id.* at 494.
[67] 349 U.S. 294 (1955).
[68] Brown II, 349 U.S. at 299.

instructed districts to act "with all deliberate speed."[69] Notably, the court did not indicate a remedy for failure to do so, an omission that led some scholars to consider the precedent ineffective.[70]

Brown represented a watershed for segregation, but it failed to expressly address higher education. In *Hawkins*,[71] via a one-sentence *per curiam* order, the court extended its desegregation mandate to higher education, citing *Brown* as precedent.[72] Some Southern states responded to *Hawkins* with facially-neutral but discriminatory statutes requiring blacks to submit, for example, certificates of eligibility and good moral character with their college applications.[73]

In ensuing years, from the *Brown* and *Hawkins* decisions until the Civil Rights Act was passed in 1964, litigation addressed equal opportunity after segregation, seeking to ensure individual rights to attend state universities.[74] LDF remained the main litigation organization behind the suits, which in almost all cases named black plaintiffs who sought admission to particular programs at white institutions.[75] Most cases were brought in the Deep South states,[76]

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[69] *Id.* at 301.
[70] M.C. Brown, *supra* note 8, at 345. *See also* Jacqueline A. Stefkovich and Terrence Leas, *A Legal History of Desegregation of Higher Education*, 63 J. NEGRO ED. 410-411 (1994).
[71] Florida *ex. rel* Hawkins v. Bd. of Control, 350 U.S. 413 (1956).
[72] Hawkins, 350 U.S. at 413.
[73] Preer, *supra* note 27, at 323. *See also* MARK WHITMAN, THE IRONY OF DESEGREGATION LAW, 1955-1995: ESSAYS AND DOCUMENTS, (Markus Weiner Publishers, 1998). "[N]ine southern states flourished declarations of interposition between 1956 and 1959, claiming that as sovereign entities they did not have to comply with the Brown decision until three-fourths of the union approved a constitutional amendment abolishing segregation." *Id.* at 36. Further, in Arkansas and Virginia, "authorities actually shut down schools rather than obey court orders." *Id.*
[74] Preer, *supra* note 27, at 343; Chait, *supra* note 10, at 177; *see infra* note 75.
[75] *See* case catalog. *See, e.g.,* Turead v. La. State Coll., 347 U.S. 971 (1954); Florida *ex rel.* Hawkins v. Bd. of Control, 350 U.S. 413 (1956); Shuttlesworth v. Birmingham Bd. of Ed., 358 U.S. 101 (1958); Bd. of Superiors of La. State Univ. v. Ludley, 252 F. 2d 372 (5th Cir. 1958); Knight v. Tenn. State Bd. of Ed., 200 F. Supp. 174 (M.D. Tenn. 1961); Franklin v. Parker, 223 F. Supp. 724 (M.D. Ala. 1963); Lucy v. Univ. of Alabama, 134 F. Supp. 235 (M.D. Ala. 1955);

though at least some were litigated in others such as Florida, Georgia , Texas, North Carolina, South Carolina, and Virginia, Tennessee.[77]

Cases in the South became particularly infamous because of the political and social climate. Despite the *Brown* decision, racially separate higher education systems were firmly entrenched through the late 1960s, especially in the Deep South.[78] In Alabama, for example, the attempted entrance of black students Autherine Lucy in 1955[79] and of Jimmy Hood, Vivian Malone, and Sandy English in 1963 to the University of Alabama was not only unsuccessful, but violent. Governor George C. Wallace infamously denounced the integration of the university and stood "in the schoolhouse door" to prevent their admission, yielding only to National Guard troops.[80]

By the end of the 1960s, equal legal access had nonetheless failed to put large numbers of blacks in white institutions.[81] Instead of increasing integration, by 1970, forty-eight percent of

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Dixon v. Ala. State Coll., M.D. Ala., Civ. No. 1634-N, 1962; Franklin v. Auburn Univ., 223 F. Supp. 724 (M.D. Ala. 1962); Gunn v. Florence State Teachers Coll., N.D. Ala., Civ. No. 63-418, 1963; Parker v. Auburn Univ., 1964; Holmes v. Univ. of Georgia, M.D. Georgia, Civ. No. 450, 1961; Emory Univ. v. Nash, DeKalb Cty. Superior Court, Civ. No. 30744, 1962; Guillory v. Tulane and Univ. of La.., E.D. La., Civ. No. 11184-1B, 1962; Nweze v. La. State Univ. and Agric. and Mech. College, E.D. La., 1963; McCoy v. Northeast La. State Coll., E.D. La., Civ. No. 2916, 1964; Welch v. Southern Univ. and Agric. and Mech. Coll., E.D. La., Civ. No. 14217, 1964.

[76] Alabama, Louisiana, and Mississippi were the three states with the the most cases filed. *See supra* note 75 and case catalog.

[77] *Id.*

[78] Janell Byrd-Chichester, *The Federal Courts and Claims of Racial Discrimination in Higher Education*, 69 J. NEGRO ED. 12, 16 (2000). Chichester put particular emphasis on "desegregation" meaning, in effect, a few "token" blacks on white campuses. *Id.* For example, Mississippi's eight higher education institutions were still almost exclusive one race in the mid-1970s. *Id.*

79 Lucy v. Adams, 134 F. Supp. 235 (N.D. Ala. 1955); *aff'd* 228 F.2d 619 (5th Cir. 1955); *cert. denied*, 351 U.S. 931 (1955).

[80] U.S. v. Ala., 628 F. Supp. 1137, 1141-1144 (N.D. Ala. 1985). *See* E. CULPEPPER CLARK, THE SCHOOLHOUSE DOOR, (Oxford University Press, 1993).

[81] Preer, *supra* note 27, at 344.

black undergraduates were enrolled at historically black colleges,[82] meaning that higher education institutions remained racially identifiable.

Part IV: Federal Action for Desegregation

A: Title VI and *Adams* v. Richardson

As desegregation progressed in the 1950s through litigation after *Brown*, important social changes were taking place as well.[83] Higher education desegregation litigation would be appreciably changed, as it was after the *Brown* decision, when Congress passed a comprehensive anti-discrimination legislation package, the Civil Rights Act of 1964.[84] Congress passed Title VI to augment the implementation of the desegregation mandates found in the courts.[85]

Title VI of the Act prohibited exclusion, based on race, color, or national origin, from any program receiving federal financial assistance;[86] such programs subjected to regulation under the Act included public higher education. Title VI mandated twenty-six federal agencies that dispensed funds to design regulations for implementation of the statute.[87] The Office of Civil Rights (OCR) in the Department of Health, Education and Welfare (HEW) drafted directives for

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[82] HENRY N. DREWRY AND HUMPHREY DOERMANN, STAND AND PROSPER: PRIVATE BLACK COLLEGES AND THEIR STUDENTS 2-3 (Princeton University Press 2001).

[83] In December, 1955, Rosa Parks prompted the Montgomery bus boycott, and civil disobedience campaigns, led by Rev. Martin Luther King, Jr. helped to organize blacks against discrimination. A few desegregation authors put particular emphasis on this social climate and link it to educational change in the courts. *See, e.g.*, Chait, *supra* note 10, at 157.

[84] Pub. L. 88-352, 78 Stat. 241, July 2, 1964.

[85] M. CHRISTOPHER BROWN II, THE QUEST TO DEFINE COLLEGIATE DESEGREGATION: BLACK COLLEGES, TITLE VI COMPLIANCE,AND POST-*ADAMS* LITIGATION 22 (Bergin & Garvey Press 1999).

[86] *See supra* note 84. "The use of federal funds for leverage in the black civil rights struggle had enormous potential...By 1960, states and localities received 14 percent of their income from federal grants in aid." STEPHEN C. HALPERN, ON THE LIMITS OF THE LAW: THE IRONIC LEGACY OF TITLE VI OF THE 1964 CIVIL RIGHTS ACT. 23-24 (Johns Hopkins University Press 1995).

[87] 42 U.S.C. §2000d. *See also* M.C. Brown, supra note 85, at 6.

the law's enforcement that included giving administrative agencies, faced with a state's noncompliance with Title VI, the power to terminate funds or to pursue other strategies to compel compliance.[88] Now agencies such as the Departments of Justice and HEW had causes of action against states that refused to comply with Title VI, thanks to Title VI and OCR's administrative procedures for enforcing it.[89]

Implementation of the Act, as with previous desegregation measures via court decisions, proved dubious. The Act improved *Brown* because of its remedy provisions tied to federal funding, but was capriciously enforced in the years after it was passed.[90] Several scholars of higher education desegregation litigation attribute part of Title VI's failure to eradicate segregation to its lack of precision: The law contained no substantial definition of racial discrimination.[91] As such, whether the token integration efforts some universities made in response to Title VI satisfied the law was unclear.[92] Moreover, the OCR directives lacked a "punch" in that they required termination of federal funding to occur only after attempting to have the state come into "voluntary compliance."[93] Therefore, states perceived the agencies' powers to affect their funding as an idle threat.

Title VI shifted the focus of higher education desegregation litigation for the rest of the 1960s to assure the quality of higher education and to increase enrollments of blacks at

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[88] M.C. Brown, *supra* note 85, at 8.
[89] Id. at 8-9; M.C. Brown, *supra* note 8, at 345; Preer, *supra* note 27, at 372. *See generally* Halpern, *supra* note 86.
[90] M.C. Brown, *supra* note 85, at 8.
[91] *See generally* Halpern, *supra* note 86; Preer, *supra* note 27; Chait, *supra* note 10; M.C. Brown, *supra* note 85, at 8. "The law did not identify what was meant by discrimination based on race or national origin – it just outlawed it." *Id.* at 8.
[92] Preer, *supra* note 27, at 374-375. *See also* M.C. Brown, *supra* note 85, at 18-28; Chait, *supra* note 10, at 166. When plaintiffs sued for access to some universities, the schools would prolong litigation until plaintiffs dropped their lawsuits. *Id.*
[93] M.C. Brown, supra note 85, at 7; *see generally* Halpern, *supra* note 86.

predominantly white institutions.[94] Despite the *Brown* decision, racially separate higher education systems were firmly entrenched through the late 1960s, especially in the Deep South.[95]

In 1968-69, OCR issued letters to ten states, informing them that they were in violation of Title VI.[96] The states were instructed to produce desegregation plans to the Department.[97] However, five of the states' plans were deemed unacceptable, and the others failed to submit a plan at all.[98] Instead of ensuring compliance by revoking federal funding, the Department took no action against those states.[99]

LDF made the Department's failure to enforce Title VI the target of its next lawsuit, in an attempt to establish a more focused and purposeful enforcement policy.[100] This suit, known as the *Adams* case, represents LDF's attempt to further compel desegregation, and to establish

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[94] Myers, *supra* note 7, at 4. *See* Lee v. Macon Cty. Bd. of Ed., 453 F. 2d 524 (5th Cir. 1971); Sanders v. Ellington, 288 F. Supp. 937 (M.D. Tenn. 1968); Norris v. Bd. of Visitors of Coll. of Wm. & Mary, 327 F. Supp. 1368 (E.D. Va. 1971); Coffee v. Rice Univ., 387 S.W. 2d 132 (1965), 402 S.W. 2d 340; 408 S.W. 2d 269 (1966); SWEET Briar Inst. v. Button, Amherst Cty. Superior Court, Civ. No. 1383, 1966; SWEET Briar Institute v. McClenny, W.D. Va., Civ. No. 66-C-10, 1966; Norris v. Va. State Coll., E.D. Va., Civ. No. 365-70, 1970.

[95] Byrd-Chichester, *supra* note 78, at 16. Chichester put particular emphasis on "desegregation" meaning, in effect, a few "token" blacks on white campuses. *Id.* For example, Mississippi's eight higher education institutions were still almost exclusive one race in the mid-1970s. *Id. See also* notes 76-81, *supra*, and accompanying text, Part III.

[96] JOHN B. WILLIAMS, ED., DESEGREGATING AMERICA'S COLLEGES AND UNIVERSITIES: TITLE VI REGULATION OF HIGHER EDUCATION 5 (Teachers College Press 1988); M.C. Brown, *supra* note 8, at 345. The states were Arkansas, Georgia, Maryland, Pennsylvania, Virginia, Florida, Louisiana, Mississippi, North Carolina, and Oklahoma. *Id.* Preer suggests that the omission of Texas, South Carolina, and Alabama, was meant to avoid political confrontations with such figures as George Wallace. Preer, *supra* note 27, at 442. The inclusion of Pennsylvania was to suggest that desegregation was not just a Southern issue, but one for the North as well. *Id.*

[97] M.C. Brown, *supra* note 8, at 345.

[98] Williams, *supra* note 96, at 7–8; M.C. Brown, *supra* note 8, at 345-346.

[99] *Id.* at 346.

[100] M.C. Brown, *supra* note 85, at 8. LDF's approach was to compel the federal government to stop states from dragging their feet with civil rights advances. Myers, *supra* note 7, at 4. "The *Adams* case was filed in D.C. federal court to prod the Office of Civil Rights to obtain acceptable plans from states to dismantle their dual system of education and if such acceptable plans were not forthcoming, to cut off federal funds." *Id.*

educational criteria for doing so, under Title VI. Like Title VI, *Adams* prompted policy change in some of the ten states out of compliance with Title VI, but in the Deep South, where de jure segregation was the most entrenched, its success was more limited.

In October 1970, LDF filed the class-action *Adams v. Richardson*[101] in the District of Columbia.[102] The plaintiffs were black college students and taxpayers in the ten noncompliant states, and the defendant was Elliot Richardson, the then-secretary of HEW.[103] Unlike previous higher education desegregation suits, the plaintiffs did not seek admission to a particular program; in fact, the taxpayer plaintiffs had no personal stake in the suit's outcome.[104] The plaintiffs claimed that the continued federal financial support of institutions that were racially identifiable, both white and black, constituted a violation of Title VI and they sought injunctive and declaratory relief.[105] The court held that HEW's support of segregated higher education systems violated the plaintiffs' rights,[106] and ordered the Department to effect the states' compliance with the law.[107] The court rejected HEW's argument that it had satisfied the law by negotiating for voluntary compliance.[108]

The *Adams* decision spawned a new debate about the scope of desegregation. Even within the NAACP, leaders disputed the importance of integration at the expense of black

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[101] 356 F. Supp. 92 (D.D.C. 1973).
[102] M.C. Brown, *supra* note 8, at 346; Preer, *supra* note 27, at 421. Preer suggests that LDF's choice to sue the federal government might have been prompted by a statement in July 1969 by the HEW Secretary and the Attorney General indicating that HEW would increasingly rely on litigation instead of fund cut-offs to improve desegregation. *Id.* at 446-447. However, it was the costliness and ineffectiveness of litigation that had caused fund cut-offs to be included in Title VI enforcement in the first place. *Id.*
[103] M.C. Brown, *supra* note 8, at 346.
[104] Preer, *supra* note 27, at 448.
[105] Adams, 356 F. Supp. at 93-94; Preer, *supra* note 27, at 450; Gilreath, *supra* note 28, at 165.
[106] Adams, 356 F. Supp. at 95.
[107] *Id.* at 96.
[108] *Id.*; Preer, *supra* note 27, at 457.

institutions.[109] The National Association for Equal Opportunity in Higher Education (NAFEO), comprised of presidents of black colleges, filed an amicus brief when HEW appealed *Adams*; it claimed that black colleges did not perpetrate segregation and that they provided an important educational access for blacks.[110] Upon consideration of NAFEO's brief, the *Adams* court directed OCR to develop criteria for the states' court-ordered desegregation plans.[111]

OCR's response came in 1978,[112] and it provided a framework for states that would last until 1994, after the Supreme Court's review of *Fordice*. The criteria incorporated desegregation standards under the Fourteenth Amendment as articulated by federal courts; they required specificity, goals, and timetables; and they acknowledged the special considerations in the higher education context, including the role of black colleges.[113] In particular, they identified three areas for compliance, which were the eradication of the dissimilarity between white and black enrollment and graduation rates; of the dual educational systems; and of the duplication of black college program offerings by nearby white institutions.[114]

Under the court's supervision, OCR proceeded to reach desegregation agreements with many of the states, and to continue to monitor their progress during the 1970s and early 1980s.[115]

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[109] Preer, *supra* note 27, at 466. *See also* WILLIAM A. KAPLIN, THE LAW OF HIGHER EDUCATION: LEGAL IMPLICATIONS OF ADMINISTRATIVE DECISION MAKING 407(Jossey-Bass, Inc. 1978),"The application of Title VI to traditionally black colleges and universities poses a special problem. Black institutions may be charged with Title VI violations or may be included in a statewide remedy for Title VI violations in a state system of postsecondary education"; Gail E. Thomas and James McPartland, *Have College Desegregation Policies Threatened Black Student Enrollment and Black Colleges? An Empirical Analysis*, 53 J. NEGRO ED. 389 (1984).
[110] M.C. Brown, *supra* note 85, at 25; Myers, *supra* note 7, at 8; Preer, *supra* note 27, at 459.
[111] Adams v. Califano, 430 F. Supp. 118 (D.D.C. 1977).
[112] 43 Fed. Reg. 6658-6664 (Feb. 15, 1978).
[113] M.C. Brown, *supra* note 85, at 25-26.
[114] Supra, note 112.
[115] Byrd-Chichester, *supra* note 78, at 18.

The changes and revisions continued until the *Adams* case was finally dismissed in 1990.[116] Those states that remained out of compliance with Title VI following OCR's 1978 directives were cited by HEW, while some were referred to the Department of Justice for litigation.[117]

Part B: Implications for litigation trends

After *Adams*, Title VI remained the law under which black citizens could bring suits to challenge discriminatory practices at the state level. *Adams* changed higher education desegregation litigation in that it invited plaintiff intervention by federal agencies such as the Departments of Education and Justice; it ensured that federal agencies were responsible for enforcing Title VI, and if they failed to do so, they could be sued. Thus, the four major desegregation cases following Adams involved a class of plaintiffs and the U.S. as an intervener suing states.[118]

Adams also resulted in HEW's OCR criteria, which served as guidelines for desegregation efforts. Those criteria gave states – and plaintiffs – specific standards for state action to achieve true desegregation.[119] They identified initiatives for states to undertake in pursuing desegregation, including, for example, integration of faculty, staff, and administration,

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[116] Women's Equity Action League v. Cavazos, 906 F.2d 742 (D.C. Cir. 1990). The court ruled that by 1987, the plaintiffs no longer had standing. *Id.* *See* Myers, *supra* note 7, at 12; Gilreath, *supra* note 28, at 188-89.

[117] M.C. Brown, *supra* note 85, at 28. The major cases were in Alabama, Louisiana, Mississippi, and Tennessee. *See* Part IV-B, *infra*.

[118] These cases were U.S. v. Fordice, 505 U.S. 717 (1992); Geier v. Alexander, 801 F.2d 799 (6th Cir. 1979); Knight v. Alabama, 787 F. Supp. 1030 (N.D. Ala. 1991); U.S. v. Louisiana, 9 F.3d 1159 (5th Cir. 1993). "In the aftermath of *Adams v. Richardson*, litigation in states like Tennessee, Louisiana, Alabama, and Mississippi continued to focus on the issue of collegiate desegregation and Title VI compliance." M.C. Brown, *supra* note 85, at 9. Each of these cases was filed by individual or collective plaintiffs against a state for failure to comply with Title VI; they all later received support from the Department of Education. *Id.* at 30.

[119] *See supra*, note 112, and accompanying text.

including governing boards; and desegregation of state-wide student enrollment to promote access for black students to white institutions.[120] These goals demonstrate a significant shift in the substance of desegregation litigation from *Adams* on. Whereas plaintiffs in pre-*Brown* cases sought an individual's admission to a particular program,[121] and plaintiffs in post-*Brown* cases did the same, though usually in larger class action lawsuits,[122] mere admission to an institution was no longer the complaint in post-*Adams* litigation. Instead, the desegregation discourse had changed to look more closely at admission and educational policies, and whether a state's policies constituted compliance as intended under Title VI.

It is this shift that was perhaps ultimately most significant for changing litigation trends. Now, desegregation as it was thought of in cases like *Brown* – meaning equal opportunity for admission of blacks to historically white institutions – no longer remained the primary hurdle. Instead, scrutiny of particular educational policies, and of the composition of university students, faculty, and governing boards, would become the focus of the major desegregation cases brought in the 1980s.

It is approximately at this point that, chronologically, desegregation litigation trends became increasingly difficult to assess. Along with the focus of desegregation cases on more nuanced aspects of the university experience, courts also began to evaluate cases on affirmative action.[123] Thus, after *Adams*, only four main desegregation cases – against the states of Alabama, Louisiana, Mississippi, and Tennessee – give shape to traditional desegregation litigation in the 1980s and 1990s to the present.

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[120] *Supra* note 112; M.C. Brown, *supra* note 85, at 26.
[121] *See* Part II, *supra*.
[122] *See* Part III, *supra*.
[123] *See* Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265 (1978).

Part V: *Knight v. Alabama*

In 1980, the court overseeing the *Adams* litigation required eight additional states to submit desegregation plans, including Alabama; Alabama's case was eventually referred to the Department of Justice for enforcement.[124] The subsequent litigation emerged as a lesser-known companion to Mississippi's *Fordice*[125] case, which ultimately reached the Supreme Court and influenced subsequent desegregation policies in Alabama and elsewhere. Studying the Alabama litigation reveals the state of desegregation in Alabama, as a state representative of the entrenched vestiges of *de jure* segregation, decades after *Brown* and Title VI.

After the *Adams* court ordered an investigation into Alabama's *de jure* segregation system, OCR at HEW attempted to achieve compliance.[126] The Department issued a Title VI noncompliance letter to the Alabama Commission on Higher Education in January 1981, requesting that the state participate in administrative proceedings to correct its Title VI violations.[127]

Also in early 1981, LDF filed a class action suit against the state of Alabama, *Knight v. James*.[128] LDF's litigation strategy in the late 1970s and early 1980s, after *Adams*, was to bring lawsuits in states hostile to implementing desegregation policies, regardless of their cooperation with OCR.[129] The plaintiffs, who were students, alumni, faculty and staff of state universities, sought injunctive and declaratory relief based on violations of the Fourteenth Amendment, Title

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[124] Joe Hagy and Carol Olson, *Achieving Social Justice: An Examination of Oklahoma's Response to* Adams v. Richardson, 59 J. NEGRO ED. 174-175 (1990). The other states were Delaware, Kentucky, Missouri, Ohio, South Carolina, Texas, and West Virginia. *Id.*
[125] U.S. v. Fordice, 505 U.S. 717 (1992).
[126] Knight v. James, 514 F. Supp. 567, 568 (M.D. Ala. 1981).
[127] *Id.*
[128] Civ. No. 81-52-N, M.D. Alabama, Northern Division.
[129] Byrd-Chichester, *supra* note 78, at 18.

VI, and 42 U.S.C. §1983.[130] The plaintiffs claimed that the state's public education system in the Montgomery area – encompassing Auburn University at Montgomery and Troy State University of Montgomery, both white institutions, and Alabama State University, which was black – was segregated.[131] They asked the court to order an immediate merger of the institutions.[132]

The District Court, in responding to LDF's suit, chose to stay that case until the Department of Education completed its administrative investigation, per the OCR guidelines, into Alabama's Title VI compliance.[133] In the following four years, the Department engaged with the state in discovery, and OCR continued to work with Alabama to correct its Title VI violations.[134] After months of negotiations, the Department of Justice filed a suit against the state of Alabama,[135] and the LDF plaintiffs joined the suit as interveners.[136] That suit, *U.S. v. Alabama*,[137] subsumed the original *Knight v. James*.[138]

This time, the plaintiffs put on a month-long trial in July, 1985.[139] They presented extensive evidence of the history of the segregated higher education system in Alabama, covering all public institutions from their incipience to the present.[140] The plaintiffs put

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[130] Knight, 514 F. Supp. at 568. The plaintiffs' strategy was modeled after *Geier v. University of Tennessee*, 597 F.2d 1056 (6th Cir. 1979), a higher education desegregation case in which the district court ordered the merger of a black and white state college in Nashville. *Id.* at 569.
[131] *Id.*
[132] *Id.*
[133] Knight, 514 F. Supp. at 570. "[D]efendants in the instant litigation are now engaged in good faith negotiations with the Department of Education to solve on a statewide basis the same problems raised by plaintiffs in regard to the Montgomery area alone." *Id.*
[134] U.S. v. Alabama, 628 F. Supp. 1137, 1140 (N.D. Ala. 1985).
[135] U.S. v. Alabama, 574 F. Supp. 762 (N.D. Ala. 1983).
[136] Knight, 787 F. Supp. at 1048-49.
[137] Civ. No. 83-C-1676-S, N.D. Alabama, Southern Division.
[138] Knight, 787 F. Supp at 1048.
[139] *Id.* at 1049 .
[140] *Id.* at 1140-1153.

particular emphasis on the discrepancies in the allotment of funds to white colleges over black.[141] This strategy is reminiscent of LDF's arguments in pre-*Brown* cases, as it focuses on the inadequacy of black institutions. The court reached the "inescapable" conclusion that the public system of higher education was segregated as of July 2, 1965, notwithstanding *Brown* or Title VI.[142]

On appeal, the Eleventh Circuit reversed and remanded the case, finding that the district court judge should have recused himself because of his involvement in the state's desegregation issues prior to the lawsuit.[143]

The case continued, and in 1991, the parties conducted another trial, which lasted almost a year.[144] The District Court, Judge Harold L. Murphy, issued a 367-page opinion detailing the state of the higher educational system.[145] The court stated that its obligation was to identify and eliminate "segregative policies and practices which survived federally mandated integration."[146] The court further stated that it could accomplish this by "ensuring adequate facilities and funding, and where necessary by ensuring that academic programs at the state's historically black institutions [were] not unnecessarily duplicated by proximately located predominantly white institutions."[147]

The court set forth findings of fact concerning each of the state's 18 four-year public universities. It found, for example, that two historically black institutions, Alabama A&M and Alabama State University, had, in 1990, an almost entirely black student body; similarly, Auburn

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[141] *Id.* at 1153-1161.
[142] *Id.* at 1153.
[143] U.S. v. Alabama, 828 F. 2d 1532, 1544 (11th Cir. 1987).
[144] Knight, 787 F. Supp. 1030 (N.D. Ala. 1991).
[145] *Id.* at 1030.
[146] *Id.* at 1046.
[147] *Id.*

University and University of Alabama, historically white institutions, had the same proportions of white students.[148] In total, the court concluded that racial identifiability among students, faculties, administrators, governing boards, inequity of funding formulas, differentiation among admission policies, and duplication of academic programs revealed vestiges of *de jure* segregation.[149] The court issued a permanent injunction against the state, and ordered the state to change employment and enrollment policies; to modify funding allocations for public universities so it was no longer based on tuition; to repair program duplication; and the court appointed a monitoring committee to oversee compliance with its orders.[150]

The court continued to oversee Alabama's changes in subsequent cases brought regarding admissions policies, attorneys fees, and monitors.[151] With modifications, the court's orders remain in effect, and the Northern District of Alabama continues to oversee the state's desegregation efforts.

Conclusion

Desegregation is a simple concept, but in practice it proved difficult to resolve. LDF's litigation campaign was a slow but effective way to vindicate individual plaintiffs' rights to secure higher education. The first stages, in the 1930s and 1940s, focused on a single black student's right to be admitted to a white institution, especially where no corresponding program existed at a black institution.[152] When the Supreme Court declared separate but equal

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[148] *Id.* at 1063.
[149] *Id.* at 1355-1364; 1378.
[150] *Id.* 1378-82.
[151] *See, e.g.,* 14 F. 3d 1534 (11th Cir. 1994); 469 F. Supp. 2d 1016 (N.D. Ala. 2006); 900 F. Supp. 272 (N.D. Ala. 1995); 824 F. Supp. 1022 (N.D. Ala. 1993); 829 F. Supp. 1286 (N.D. Ala. 1993); 801 F. Supp. 577 (N.D. Ala. 1992).
[152] *See supra* Part II.

unconstitutional with *Brown* in 1954,[153] the issue shifted from an individual's mere right to admission to enforcement of that right. With the Civil Rights Act of 1964,[154] the federal government's involvement was meant to provide a remedy for individuals whose rights were still denied. Not until *Adams v. Richardson*, where LDF sued the federal government for failure to enforce Title VI, were states compelled to comply.[155]

As the study of *Knight v. Alabama* demonstrates, even with these established legal mechanisms to end segregation, vestiges of the state's *de jure* system persisted well into the 1990s, and they continue to be monitored.[156] Now, questions surrounding the preservation of historically black institutions and the most equitable educational policies to emply remain unanswered.

Knight also represents one of the last major higher education desegregation cases. One scholar asserted that "it is clear that the assimilation vision forged during the turbulent 1950s and 1960s, with its emphasis on integration and racial balancing solutions to black/white racial conflict, has run its course."[157] He explains that over time, the Supreme Court has backed away from requiring schools to aggressively pursue desegregation, and that by the 1990s, the Court's attention focused on issues surrounding termination of desegregation decrees.[158] It could be that this shift is attributable to the Court's change in composition over time, and it is also possible that the social, cultural, and political climate, over 50 years after *Brown*, has rendered the issue resolved to the greatest possible extent through LDF's litigation campaign. Instead, the litigation

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[153] *See supra* notes 61-66 and accompanying text.
[154] *See supra* notes 84-87 and accompanying text.
[155] *See supra* Part IV-A.
[156] *See supra* notes 149-151 and accompanying text.
[157] KEVIN BROWN, RACE, LAW, AND EDUCATION IN THE POST-DESEGREGATION ERA: FOUR PERSPECTIVES ON DESEGREGATION AND RESEGREGATION 6 (Carolina Academic Press, 2005).
[158] *Id.* at 7.

of desegregation of higher education has now turned to a different discourse, including specific educational policies[159] and the role of affirmative action in admission policies.[160]

[159] See *supra* notes 149 –150 and accompanying text.
[160] *See Gratz v. Bollinger*, 539 U.S. 244 (2003); *Grutter v. Bollinger*, 539 U.S. 306 (2003).

Caption	Number	Source
Pavey and U.S. v. University of Alaska	AK-1	AG 1982; consent decree entered October 14, 1981
Cumming v. Board of Education, 175 U.S. 528 (1899)	AL-1	
Lucy v. University of Alabama, 1955; 350 U.S. 1; 134 F. Supp. 235; Civ. No.	AL-2	RRLR at 1099
Dixon v. Alabama State College, 1962; Civ. No. 1634-N; M.D. Ala, Northern Div.	AL-3	RRLR at 1302
Franklin v. Auburn Univ., 1962; Franklin v. Parker, 223 F. Supp. 724 (M.D. Ala. 1963)	AL-4	RRLR at 1355
Gunn v. Florence State Teachers College, 1963; Civ. No. 63-418; N.D. Ala., Northwestern Div.	AL-5	RRLR at 1364
Parker v. Auburn Univ., 1964	AL-6	RRLR at 1439
Lee v. Alabama Trade School and Junior Colleges, 1971	AL-7	RRLR at 2059-2060
Lee v. Macon Cty. Bd of Ed, 453 F. 2d 524 (5th Cir. 1971)	AL-8	Found from Shephardizing Ayers v. Allain (1987)
Lee v. Macon (AL Trade Schools and Jr. Colleges), M.D. Ala.	AL-9	AG 1975
U.S. v. Alabama, No. 83-1976 (N.D. Ala.)	AL-10	AG 1983
Alabama State v. Auburn Univ. 828 F. 2d 1532 (11th Cir. 1987)	AL-11	Found from Shephardizing Ayers v. Allain (1987)
Knight v. James, filed 1981 -- 514 F. Supp. 567 (M.D. Ala. 1981); 628 F. Supp. 1137 (N.D. Ala. 1985); 791 F. 2d 1450 (11th Cir. 1986); 796 F. 2d 1478 (11th Cir. 1986); 828 F. 2d 1532 (11th Cir. 1987)...	AL-12	Shepardized
Knight v. Alabama, 787 F. Supp. 1030 (N.D. Ala. 1991) "Knight I", aff'd 14 F. 3d 1534 (11th Cir. 1994); 801 F. Supp. 577 (N.D. Ala. 1992)...	AL-13	Shepardized
Knight v. Alabama, 900 F. Supp. 272 (N.D. Ala. 1995) "Knight II"	AL-14	Shepardized
Knight v. Alabama, 458 F. Supp. 2d 1273 (N.D. Ala. 2004) "Knight III"; 962 F. Supp. 1442 (N.D. Ala. 1996); 2006 Lexis 94745; 2007 Lexis 2058 (11th Cir.)	AL-15	Shepardized
Shuttlesworth v. Birmingham Board of Ed., 358 U.S. 101 (1958)	AL-16	

Berea College v. Commonweath, 211 U.S. 45 (1908)	AR-1	
Parker v. Univ. of Delaware, 75 A.2d 225 (Del. 1950)	DE-1	Preer bibliography
Florida ex rel Hawkins v. Board of Control, 350 U.S. 413 (1956)	FL-1	
Hammond v. Univ of Tampa, 1964; Civ. No. 63-51, M.D. Fla, Tampa Div.	FL-2	RRLR at 1426
Smith v. Winters, settled 2002 (M.D. Fla.)	FL-3	OCR "briefs & cases" link
Due v. Florida Agricultural and Mechanical School, 233 F. Supp. 396 (1963)	FL-3	Chait bibliography
Holmes v. University of Georgia, 1961; Civ. No. 450; M.D. Ga., Athens Div.	GA-1	RRLR at 1268
Emory University v. Nash, 1962; No. 30744; DeKalb Cty.	GA-2	RRLR at 1304
Hunnicutt v. Burge, 356 F. Supp. 1227 (M.D. Ga. 1973)	GA-3	Preer bibliography
Brown v. Board of Education, 347 U.S. 483 (1954); 349 U.S. 294 (1955)	KS-1	
Johnson v. Board of Trustees of University of Kentucky, 83 F. Supp. 707 (E.D. Ky. 1949)	KY-1	Preer bibliography
Turead v. Louisiana State College, 1954; 347 U.S. 971.	LA-1	RRLR at 1113
Guillory v. Tulane and Univ. of Louisiana, 1962; Civ. No. 11484-1B; E.D. La., New Orleans Div.	LA-2	RRLR at 1310, 1311, 1363
Nweze v. Louisiana State Univ. and Agricultural and Mechanical College, 1963; E.D. La., New Orleans Div.	LA-3	RRLR at 1380
McCoy v. Northeast Louisiana State College, 1964; Civ. No. 2916; E.D. La., Baton Rouge Div.	LA-4	RRLR at 1434

Welch v. Southern Univ. and Agricultural and Mechanical College, 1964; Civ. No. 14217, E.D. La., New Orleans Div.	LA-5	RRLR at 1455
U.S. v. Louisiana, No. 74-68; filed M.D. LA 1974	LA-6	AG 1975; AG 1981; AG 1982 – consent decree
543 F.2d 1125, 1976 U.S. App. LEXIS 5866 (5th Cir. La. 1976)	LA-7	
543 F.2d 1125 (5th Cir. La. 1976)		
527 F. Supp. 509 (E.D. La. 1981)		
692 F. Supp. 642 (E.D. La. 1988)		
718 F. Supp. 499 (E.D. La. 1989)		
1990 U.S. Dist. LEXIS 5179 (E.D. La. May 3, 1990)		
751 F. Supp. 606 (E.D. La. 1990)		
1992 U.S. Dist. LEXIS 19854 (E.D. La. Dec. 22, 1992)		
811 F. Supp. 1151 (E.D. La. 1993)		
815 F. Supp. 947 (E.D. La. 1993)		
9 F.3d 1159 (5th Cir. La. 1993)		
669 F.2d 314 (5th Cir. La. 1982)		
527 F. Supp. 509 (E.D. La. 1981)		
718 F. Supp. 521 (E.D. La. 1989)		
751 F. Supp. 621 (E.D. La. 1990)		
751 F. Supp. 608 (E.D. La. 1990)		
Board of Superiors of LSU v. Wilson Fleming, Jr., aff'd per curiam, 340 U.S. 909 (1951)	LA-8	Preer bibliography
Board of Superiors of LSU v. Ludley, 252 F. 2d 372 (1958)	LA-9	Preer bibliography
Constantine v. Southwestern Louisiana Institute, 120 F. Supp. 417 (1954)	LA-10	Chait bibliography
Podberesky v. Kirwan, 38 F.3d 147 (4th Cir. 1994); 838 F. Supp. 1075 (D. Md. 1993)	MD-1	Found through Shephardizing Fordice
McCready v. Byrd, 73 A. 2d 8 (Md. 1950)	MD-2	Preer bibliography
Booker v. Grand Rapids Medical School, 120 N.W. 589 (Mich. 1909)	MI-1	Chait at 56

Missouri ex rel Gaines v. Canada, 305 U.S. 337 (1938)	MO-1	
State ex rel. Bluford v. Canada, 153 S.W. 2d 12 (Mo. 1941); 32 F. Supp. 707 (W.D. Mo. 1940).	MO-2	Preer bibliography
State ex. rel. Toliver v. Board of Ed, 230 S.W. 2d 724 (Mo. 1950)	MO-3	Preer bibliography
Meredith v. Univ of Mississippi, 1962: 298 F.2d. 696, 305 F.2d 341, 313 F.2d 534 (5th Cir. 1962)	MS-1	RRLR at 1322, 1323
Meredith v. Fair, 199 F. Supp. 754 (S.D. Miss. 1961)		Preer bibliography
Greene, Jr. v. Univ. of Mississippi, 1963; Civ No. 3130, S.D. Miss, Jackson Div.	MS-2	RRLR at 1361
Donald, Jr. v. Univ of Mississippi, 1964; Civ. No. 3583; S.D. Miss, Jackson Div.	MS-3	RRLR at 1417
U.S. v. State of Mississippi, Docket No. 70-36	MS-4	AG 1979
Ayers I v. Allain 674 F. Supp. 1523 (N. D. Miss. 1987)!!	MS-5	Blake, *Is Higher Education Desegregation a Remedy...(references)*
Court of Appeals reversed and remanded – Ayers III v. Mabus, 893 F.2d 732 (5th Cir. 1990)		
Ayers and U.S. v. Winters	MS-6	AG 1980; 1981
Ayers and U.S. v. Waller, S.D. Miss.	MS-7	AG 1975
Ayers and U.S. v. Finch, S.D. Miss 1975	MS-8	AG 1976
State ex rel. Weaver v. Board of Trustees of Ohio State University, 126 Ohio 290; 185 N.E. 196 (1933)	OH-1	Chait bibliography
State of North Carolina v. Department of Health, Education, and Welfare, No. 79-215, 1979	NC-1	AG 1979
Epps v. Carmichael, 93 F. Supp. 327 (M.D.N.C. 1950)	NC-2	Preer bibliography
Frasier v. Board of Trustees, 134 F. Supp. 589 (M.D.N.C. 1955)	NC-3	Preer bibliography
Wynn v. Trustees of Charlotte Community College System, 122 S.E. 2d 404 (N.C. 1961)	NC-4	Preer bibliography

Morehead v. New York ex. rel. Tipaldo, 289 U.S. 587 (1936)	NY-1	Chait bibliography
Sipuel v. Board of Regents of University of Oklahoma, 332 U.S. 631 (1948)	OK-1	
McLaurin v. Oklahoma State Regents, 339 U.S. 637 (1950)	OK-2	
Gantt v. Clemson Agricultural College of S.C., 208 F. Supp. 416 (W.D.S.C. 1962)	SC-1	RRLR at 1306
Monteith v. Univ. of South Carolina, 1963; E.D.S.C.; Columbia Div.	SC-2	RRLR at 1379
Wrighten v. Board of Trustees, 72 F. Supp. 948 (E.D.S.C. 1947)	SC-3	Preer bibliography
Booker v. State of Tennessee Board of Education (Memphis State College), 1955; Civ. No. 2656	TN-1	RRLR at 1078
Sanders v. Ellington, 288 F. Supp. 937 (M.D. Tenn. 1968)	TN-2	Coleman McGinnis, Geier case history
Geier v. TSU, 1972; Civ. No. 5077; M.D. Tenn.	TN-3	RRLR at 2053
U.S. and Geier v. Dunn, 337 F. Supp. 753 (M.D. Tenn. 1973)	TN-3	AG 1975
Geier v. Blanton, 427 F. Supp. 644 (M.D. Tenn. 1977), aff'd, 597 F.2d 1056 (6th Cir.)	TN-3	AG 1976 & 1978; Coleman McGinnis, Geier case history
Geier and U.S. v. Alexander, 593 F. Supp. 1263 (M.D.Tenn 1984); 801 F.2d 799 (6th Cir. 1986)	TN-3	AG 1984; Coleman McGinnis, Geier case history
Richardson v. Univ. of Tennessee, 597 F. 2d 1078 (6th Cir. 1979)	TN-4	Preer bibliography
Gray v. Board of Trustees of Univ. of Tennessee, 97 F. Supp. 463; 100 F. Supp. 113 (1951)	TN-5	Chait bibliography
Knight v. Tennessee State Board of Education, 200 F. Supp. 174 (1961)	TN-6	Chait bibliography
Gong Lum v. Rice, 275 U.S. 78 (1927)	TX-1	
Sweatt v. Painter, 339 U.S. 629 (1950)	TX-2	
Atkins v. North Texas State College, 1955; Civ. No. 1104	TX-3	RRLR at 1074
White v. Texas Western College of the Univ. of Texas, 1955; Civ. No. 1616	TX-4	RRLR at 1114
Whitmore v. Texarkana Junior College, 1955; 227 F. 2d 187 (5th Cir.)	TX-5	RRLR at 1114

Shipp, Jr. v. West Texas State College, 1960; Civ. No. 2789, N.D. Tex, Amarillo Div.	TX-6	RRLR at 1248
Smith v. Southwest Texas State College, 1963; W.D. Tex.; Civ. No 1305; Austin Div.	TX-7	RRLR at 1384
Rice Univ. v. Waggoner Carr, 1964; Civ. No. 612, 668; Harris Cty.	TX-8	RRLR at 1442
Coffee v. Rice Univ., 1966. 387 S.W. 2d 132 (1965); 402 S.W. 2d 340, 408 S.W. 2d 269 (1966).	TX-9	RRLR at 1648
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SWEET Briar Institute v. Robert Button, 1966; Amherst Cty, Civ No. 1383	VA-2	RRLR at 1603, 1707
SWEET Briar Institute v. McClenny, 1966, Civ. No. 66-C-10; W.D. Va.	VA-3	RRLR at 1604
Norris v. Virginia State College, 1971; No. 365-70; E.D. Va.	VA-4	RRLR at 2064-2065
Norris v. Bd. of Visitors of College of Wm & Mary, 404 U.S. 907 (1971); 327 F. Supp. 1368 (E.D. Va. 1971)	VA-5	Found from Shephardizing Ayers v. Allain (1987)
Adams v. Richardson, 356 F. Supp. 92 1973	DC-1	