

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Case No. 3:70-cv-04706-WHB-LRA
v.)	
)	WAYNE COUNTY SCHOOL DISTRICT
STATE OF MISSISSIPPI, <i>et al.</i> ,)	
)	
Defendants.)	
)	

AGREED ORDER

Upon consideration of the joint motion of Plaintiff United States of America (“United States”) and Defendant Wayne County School District (the “District”) (collectively, the “Parties”) that this Court declare the District fully unitary, dissolve all injunctions issued against the District in this school desegregation case, and dismiss the case against the District with prejudice, the Court grants the motion and finds as follows:

1. This is a desegregation case in which the United States filed a complaint on July 9, 1970, seeking to enjoin the District from operating a dual school system based on race. On August 11, 1970, this Court issued an order (“1970 Order”) that permanently enjoined the operation of a dual system of schools within the District, adopted a comprehensive desegregation plan, and directed the District to submit semi-annual reports. Subsequent orders were entered in the case to further the desegregation of the District in 1989 and 1990.

2. On May 16, 2006, this Court approved a Consent Order (“2006 Consent Order”) declaring the District partially unitary in the areas of faculty assignment, staff assignment, transportation, extracurricular activities, and facilities.

3. The 2006 Consent Order required the District to take certain actions to comply with its desegregation obligations in the area of student assignment, specifically with respect to classroom assignment at Waynesboro Elementary School and intra-district student transfers.

4. The 2006 Consent Order was subsequently modified, supplemented, and extended by the August 8, 2008 Consent Order (“2008 Consent Order”), which required the District to produce to the United States classroom rosters for Waynesboro Elementary School reflecting the name of the teacher, and the name and race of all students in each classroom, two times each semester.

5. The 2006 Consent Order and 2008 Consent Order were subsequently modified, supplemented, and extended by the January 3, 2012 Consent Order (“2012 Consent Order”), which addressed the United States’ continuing concerns over the District’s compliance with the earlier orders with respect to classroom assignment at Waynesboro Elementary School and intra-district student transfers.

6. The 2012 Consent Order required the District to adopt a random assignment procedure for all classroom assignments at Waynesboro Elementary School, grant intra-district student transfers only when the requested transfer satisfied the requirements of a majority-to-minority transfer or in the event of an exceptional hardship, and to continue submitting compliance reports to the United States and this Court under the schedule set forth in the 2008 Consent Order.

7. The District implemented a system of random classroom assignment and began enforcing its intra-district transfer policies prior to the beginning of the 2011-2012 school year, and before the Court’s approval of the 2012 Consent Order memorializing these practices.

8. As permitted by the 2012 Consent Order, the District proposed a modified race-neutral classroom assignment procedure on April 12, 2013, to which the United States consented on June 11, 2012. Under this modified procedure, the District uses a random computerized assignment process that considers student ability level to ensure that all classrooms have a heterogeneous mix of ability levels. The modified procedure also permits the District to reassign students to classrooms under exceptional circumstances, including based on language instruction needs for English Learner students, specific services for students with disabilities, or the safety or welfare of the student, provided that the District provide a detailed written explanation of the basis for the reassignment to the United States. The District has utilized this modified procedure for the 2012-2013, 2013-2014, and 2014-2015 school years. The District intends to continue utilizing these classroom assignment procedures in the future.

9. The 2012 Consent Order permitted the District to seek full unitary status no sooner than forty-five (45) days after the United States received the District's October 5, 2014 court report.

10. The District has fully complied with its reporting requirements under the operative court orders, including timely filing semi-annual reports with the Court and producing classroom rosters to the United States four times annually. The District filed its most recent semi-annual court report on March 9, 2015.

11. As required by the 2012 Consent Order, the District has sought and obtained the United States' consent for all individual classroom assignment changes made since the beginning of the 2011-2012 school year.

12. At various times, the District has produced other information requested by the United States regarding classroom assignment and intra-district transfers to assist the United

States in evaluating the District's compliance with the operative court orders. As part of the United States' final compliance review, the District provided detailed information regarding transfers into and out of Waynesboro Elementary School for the last two school years, as well as information about the race of the Waynesboro Elementary School teaching staff.

13. On January 29, 2015, the United States conducted a final compliance monitoring visit to the District. During that visit, the United States interviewed all District- and school-level staff involved in the classroom assignment process at Waynesboro Elementary School, including: Superintendent Ben H. Graves, Deputy Superintendent R.P. Staten, District Mississippi Student Information System ("MSIS") Secretary Shiela Brewer, Waynesboro Elementary School Co-Principals Shrona Turner and Lara McKee, Waynesboro Elementary School MSIS Secretary Katie Bost, and several staff members who have served as witnesses to the annual classroom assignment process conducted at the District's central office. Additionally, the United States toured Waynesboro Elementary School and observed classes at the school.

14. Between January and February 2015, the United States retained a litigative consultant with expertise in classroom assignment issues to review the classroom assignment data produced by the District since the 2008 Consent Order was entered. The United States' consultant concluded that the District's classroom assignment practices at Waynesboro Elementary School complied with the requirements of the 2012 Consent Order and that the District did not impermissibly use students' race in making classroom assignments and reassignments.

15. Based on the United States' and its consultant's review of the District's compliance reports, classroom rosters, and other classroom assignment data produced by the District; the United States' interviews of District-level and school-level personnel on January 29,

2015; and other communications between the United States and the District since 2006, the United States determined that the District has complied in good faith with all provisions of the 2012 Consent Order. The United States notified the District of this determination on February 19, 2015.

16. The District has effectively implemented a race-neutral, random classroom assignment procedure for students at Waynesboro Elementary School for the 2011-2012, 2012-2013, 2013-2014, and 2014-2015 school years. Additionally, the Parties agree that the District has complied with the intra-district transfer provisions of the 2012 Consent Order.

17. As required by the 2012 Consent Order, the District does not permit any student in grades K-8 to attend or transfer to a school outside of the attendance zone in which the student actually resides, unless the requested transfer would constitute a majority-to-minority transfer or if the District determines that an exceptional hardship (e.g., health of the student, safety of the student, natural disaster, family emergencies) warrants placement at a school outside of a student's attendance zone of residence. The District verifies the addresses of all K-8 students in the District. The District also publicizes its majority-to-minority and intra-district transfer policies in the student handbook. The District has maintained documentation of all transfer requests and included summaries of intra-district transfers in its semi-annual compliance reports. The United States has determined that the District is complying with the student transfer provisions of the operative court orders.

18. A school district may be declared unitary when the district has: (1) fully and satisfactorily complied in good faith with the court's desegregation orders for a reasonable period of time; (2) eliminated the vestiges of prior *de jure* segregation to the extent practicable; and (3) demonstrated a good faith commitment to the whole of the court's order and to those

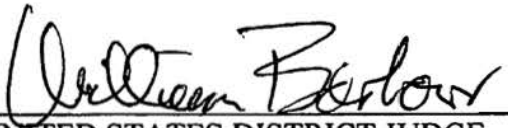
provisions of the law and the Constitution which were the predicate for judicial intervention in the first instance. See *Missouri v. Jenkins*, 515 U.S. 70, 88-89 (1995); *Freeman v. Pitts*, 503 U.S. 467, 491-92, 498 (1992); *Bd. of Educ. of Oklahoma City Pub. Sch., Indep. Sch. Dist. No. 89 v. Dowell*, 498 U.S. 237, 248-50 (1991).

19. The Parties agree, and the Court finds, that the District has fully and satisfactorily complied with this Court's desegregation orders for a reasonable period of time, eliminated the remaining vestiges of the former dual school system in the area of student assignment to the extent practicable, and demonstrated a good faith commitment to the Court's orders and all applicable laws and Constitutional requirements.

BASED ON THE FOREGOING, THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES THAT:

Defendant Wayne County School District (the "District") is hereby declared fully unitary in all respects, all injunctions entered in this case against the District are dissolved, and the District is dismissed as a defendant in this case with prejudice.

SO ORDERED, this 12th day of May, 2015.


UNITED STATES DISTRICT JUDGE

The signatures of counsel on the following page indicate the Parties' consent to the form and content of this Agreed Order.

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