

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

BOARD OF TRUSTEES OF CROSBY
INDEPENDENT SCHOOL DISTRICT,
HARRIS COUNTY, TEXAS., *et al.*,

Defendants.

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CIVIL ACTION NO. 69-0802

FINAL JUDGMENT

Pending before the Court is the Motion for Approval of Agreed Order of Dismissal
(Instrument No. 65).

I. PROCEDURAL HISTORY

The United States initiated this school desegregation suit against the District and the Texas Education Agency (TEA) in 1969. At the time, the District operated two campuses housing twelve grades each: the Drew campus, serving minority students, located in the all-black community of Barrett Station; and the Crosby campus, serving white students, located in a white

area known as "Old Crosby." The District enrolled approximately 2,000 students, 50% of whom were minority.

The original desegregation plan entered in 1970 required the District to operate a single twelve-grade system: grades 1-3 and 9-12 on the Old Crosby campus, and grades 4-8 on the Drew campus. Thereafter, the District filed annual reports required by this Court's April 30, 1970 order. In July 1983, the Court entered a Consent Decree submitted by the parties which found that the District had become "unitary" in accordance with then applicable legal principles. The Consent Decree provided that the District was to continue to provide annual reports for an additional three years and that, absent a showing of cause by the United States, the case would be dismissed in July 1986.

In 1985, TEA conducted an investigation and issued a report which concluded that the District had violated the 1970 court order by constructing facilities and reassigning grades without informing the United States or seeking the approval of the Court. Following further developments concerning that issue, the Court subsequently extended its jurisdiction over this case.

II. STIPULATED FACTS

A. Student Assignment. The District currently enrolls approximately 4987 students in six schools: Crosby Kindergarten (K), Barrett Primary (1-2), Newport Elementary (3-4), Drew Intermediate (5-6), Crosby Middle (7-8), and Crosby High (9-12). The grade structure is consistent with the court-ordered student assignment plan in that the ratio of black students to white students at any school reflects the grade level enrollment district wide. Classroom assignments are made on a non-discriminatory basis.

The District's student enrollment for the 2008-2009 school year is set out below:

Schools	Black (%)	White (%)	Other (%)	Total
Crosby Kindergarten	21%	50%	29%	516
Barrett Primary	20%	53%	27%	718
Newport Elementary	21%	53%	26%	741
Drew Intermediate	19%	54%	27%	778
Crosby Middle	21%	56%	25%	743
Crosby High	21%	58%	21%	1491
District Count Total	1015	2727	1245	4987
District-Wide %	20%	55%	25%	100%

B. **Faculty and Staff.** The District employs approximately 300 teachers, 57 (19%) of whom are black. Faculty and staff are assigned to the District's schools on a non-discriminatory basis.

The District's faculty for the 2008-2009 school year is set out below:

Schools	Black (%)	White (%)	Other (%)	Total
Crosby Kindergarten	22%	70%	8%	100%
Barrett Primary	19%	74%	7%	100%
Newport Elementary	19%	77%	4%	100%
Drew Intermediate	26%	71%	3%	100%
Crosby Middle	21%	77%	2%	100%
Crosby High	15%	79%	6%	100%
District-Wide %	19%	76%	5%	100%

C. **Extra-Curricular Activities.** Extra-curricular activities are provided on a non-discriminatory basis.

D. **Facilities and Transportation.** These school system operations are provided on a non-discriminatory basis.

In sum, there is no evidence that the vestiges of segregation remain in any 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*, 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 U.S. 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); *Board of Educ. of Oklahoma 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. 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. *Freeman*, 503 U.S. at 492-93. Regardless, "[t]he measure of a desegregation plan is its effectiveness." *Davis v. Bd of Sch. Comm'rs*, 402 U.S. 33, 37 (1971).

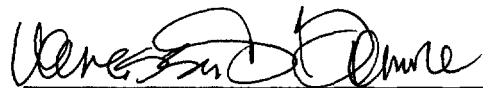
IV. CONCLUSION

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. 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 all prior injunctions in this case are DISSOLVED, the District is declared UNITARY, the Court's jurisdiction over this case is TERMINATED, and this case is DISMISSED WITH PREJUDICE.

The Clerk shall enter this Order and provide a copy to all parties.

SIGNED on this the 30th day of April, 2010, at Houston, Texas.



VANESSA D. GILMORE
UNITED STATES DISTRICT JUDGE