

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
OLD WASHINGTON DIVISION
No. 6:69-CV-702-H

RONDA EVERETT, MELISSA GRIMES,)
CAROLINE SUTTON, and CHRISTOPHER)
W. TAYLOR, next friends of minor)
children attending Pitt County)
schools, and THE PITT COUNTY)
COALITION FOR EDUCATING BLACK)
CHILDREN,)

Plaintiffs,)

v)

JUVENILE FEMALE 1 and THE)
GREENVILLE PARENTS ASSOCIATION,)

Plaintiffs-Intervenors,)

v.)

THE PITT COUNTY BOARD OF)
EDUCATION, public body)
corporate,)

Defendant.)

ORDER

This action originated in two separate suits filed against the Greenville City Board of Education and the Pitt County Board of Education during the 1960s. The suits sought racial desegregation of the two public school districts located within Pitt County, North Carolina. In July 1970, Judge John D. Larkins, Jr., rejected proposed desegregation plans submitted by the two school boards, concluding that the proposed plans would

continue the operation of racially identifiable schools. Judge Larkins ordered each of the school boards to submit amended desegregation plans that would remedy the racial imbalance extant within the schools. Judge Larkins subsequently approved the amended desegregation plans, and the actions were removed from the pending docket and administratively closed, subject to being reopened.

The actions remained dormant for over thirty-five years until the elementary schools located within the City of Greenville were redistricted for the 2006-2007 academic year. In February 2006, plaintiffs-intervenors filed a complaint with the Office for Civil Rights, United States Department of Education, alleging that the 2006-2007 student assignment plan adopted by the Pitt County Board of Education ("School Board")¹ was unconstitutional because it was based on race.

Pursuant to a settlement with the Office for Civil Rights, the School Board, on March 18, 2008, filed a motion to reopen the case involving the Greenville City schools in order to seek judicial approval of the 2006-2007 student assignment plan and school attendance area policy, as well as its September 2007 revisions to Policy 10.107 (School Attendance Areas).

¹The Greenville City Schools and Pitt County Schools were merged by the North Carolina General Assembly, effective July 1, 1986. The two school boards were abolished and replaced by a consolidated Pitt County Board of Education. H.R. 1487, 1985 Gen. Assem., Reg. Sess. (N.C. 1986).

According to the School Board, the 2006-2007 plan used satellite school districts and racial balancing ratios in an effort to reduce the racial isolation of elementary schools in the former Greenville City school district. In September 2007, the School Board revised its school attendance area policy to replace racial diversity goals with non-racial factors, such as student achievement and socio-economic status, because the 2006-2007 student assignment plan had failed to produce the desired effects of improving student diversity and academic performance. On July 3, 2008, plaintiffs-intervenors filed a motion asking the court to deny the School Board's motion and to declare the Pitt County Schools unitary and no longer subject to this court's 1970 desegregation orders.

On July 9, 2008, this court reopened and consolidated the school desegregation cases. The court entered a scheduling order on October 6, 2008, requiring that discovery be completed by June 21, 2009, that mediation be held in January or February 2009, and that dispositive motions be filed by July 21, 2009.

The parties have since advised the court they have reached a settlement as to all matters in dispute, and they seek court approval of the settlement. As part of their settlement agreement, the School Board has agreed to provide plaintiffs with certain non-personally identifiable data concerning students and teachers to the extent disclosure is allowed by

federal and state law. The School Board has further agreed to involve plaintiffs and plaintiffs-intervenors in the planning and discussion stages of the next student assignment plan. In exchange, plaintiffs-intervenors have agreed to withdraw their motion for unitary status declaration and to consent to the entry of an order granting the School Board's motion for court approval of its 2006-2007 student assignment plan and revised Policy 10.10" (School Attendance Areas).

The court has carefully considered the parties' settlement agreement and finds it to be fair and reasonable. The School Board's adoption of the 2006-2007 student assignment plan and revised Policy 10.107 were undertaken by the School Board in good faith compliance of the remedial plans approved by this court's 1970 desegregation orders. Accordingly, the court grants the parties' request for approval of the 2006-2007 student assignment plan and revised Policy 10.107.

Although the parties have not requested the court to lift the 1970 desegregation orders, the court posits whether it is time to do so. When this action was initiated, racial segregation in housing, transportation, education, employment and facilities was widespread. The Greenville City Board of Education operated a dual, segregated school system with separate schools for blacks and whites. The desegregation orders at issue here came on the heels of the civil rights

movement of the 1950s and 1960s and the assassination of Martin Luther King, Jr. In addition, there have been changes in the racial composition of the student population. In 1970, for example, 65% of the elementary students attending city schools were white and 35% were black. By 2005, black enrollment in the city schools had increased to 56%, whereas the number of white students had decreased to 44%. See Freeman v. Pitts, 503 U.S. 467, 493 (1992) (holding that school districts have no duty to remedy racial imbalance caused by demographic factors once desegregation has been accomplished and de jure discrimination eliminated).

Simply put, the world we live in today is far different than what existed at the time this court ordered desegregation of the Greenville City and Pitt County schools. At the time, judicial intervention was needed to eliminate the unconstitutional de jure system; but it was not intended to be permanent. "[L]ocal autonomy of school districts is a vital national tradition." Dayton Bd. of Educ. v. Brinkman, 433 U.S. 406, 410 (1977); see also Milliken v. Bradley, 418 U.S. 717, 741 (1974) ("No single tradition in public education is more deeply rooted than local control over the operation of schools."). "Returning schools to the control of local authorities at the earliest practicable date is essential to restore their true accountability in our governmental system." Freeman, 503 U.S.

at 490. It is time for the School Board to follow course and fulfill its obligation to attain unitary status so that it may reclaim complete control over its schools.

Accordingly, the court APPROVES the parties' settlement and GRANTS the School Board's motion for judicial approval of its 2006-2007 student assignment plan and revised Policy 10.107 [DE #23]. The court ORDERS the parties to work toward attaining unitary status so that the court may relinquish jurisdiction over this case and restore to the School Board full responsibility for the operation of its schools. The court further ORDERS the parties to submit, on or before December 31, 2012, a report detailing the School Board's efforts and progress in achieving unitary status and eliminating the vestiges of past discrimination to the extent practicable.

All remaining motions are DISMISSED as moot. This case shall be administratively closed, subject to being reopened upon motion of any party to this action and upon filing of the parties' report.

This 4th day of November 2009.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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