

426 F.2d 1364

United States Court of Appeals, Fifth Circuit.

Derek Jerome SINGLETON et al., Plaintiffs-
Appellants,

v.

JACKSON MUNICIPAL SEPARATE SCHOOL
DISTRICT et al., Defendants-Appellees.

No. 29226.

|
May 5, 1970, Rehearing Denied and Rehearing En
Banc Denied July 13, 1970.

School desegregation case. After remand, 419 F.2d 1211, reversed in part, 396 U.S. 1027, 90 S.Ct. 608, the United States District Court for the Southern District of Mississippi at Jackson, Dan M. Russell, Jr., J., entered judgment approving school desegregation plan and appeal was taken. The Court of Appeals, John R. Brown, Chief Judge, held that school desegregation plan which resulted in 7 of 38 elementary schools in city school system having all black student bodies, 6 with 90% Black student bodies, 6 with all white and 2 with 90% White student bodies and 4 secondary schools with overwhelmingly black student bodies did not produce a unitary system.

Reversed and remanded.

See also 5 Cir., 425 F.2d 1211.

Coleman, Circuit Judge, noted in favor of an en banc rehearing.

Attorneys and Law Firms

***1364** Fred L. Banks, Jr., Melvyn R. Leventhal, Reuben V. Anderson, John A. Nichols, Jackson, Miss., Jack Greenberg, James M. Nabrit, III, Norman J. Chachkin, Jonathan Shapiro, New York City, for plaintiffs-appellants.

Robert C. Cannada, Thomas H. Watkins, Jackson, Miss., for defendants-appellees.

Jerris Leonard, Asst. Atty. Gen., David D. Gregory, Atty., Civil Rights Div., U.S. Dept. of Justice, Washington, D.C., amicus curiae.

Before JOHN R. BROWN, Chief Judge, and MORGAN and INGRAHAM, Circuit judges.

Opinion

***1365** JOHN R. BROWN, Chief Judge.

This is an appeal from an order of the District Court entered pursuant to the remand from *Singleton v. Jackson Municipal Separate School District* (*Singleton III*),¹ 5 Cir., 1969, 419 F.2d 1211 (consolidated cases en banc), rev'd in part, sub nom., *Carter v. West Feliciana Parish School Bd.*, 1970, 396 U.S. 290, 90 S.Ct. 608, 24 L.Ed.2d 477. Prior to this remand the district was operating under a Jefferson^{1a} model freedom-of-choice plan. And after remand for the adoption of a unitary plan the District Court called for the school board to invoke the assistance of the Office of Education of the United States Department of Health, Education and Welfare in preparing new desegregation plans. HEW filed a plan with three alternative proposals for secondary schools. The school board proposed modifications (see note 8, *infra*) that reduced the amount of desegregation that would result and these modifications were, after an evidentiary hearing on January 19, 1970, for the most part approved by the District Court. And this new plan was ordered implemented on February 1, 1970.

[1] [2] Our concern is whether the system approved by the District Court is unitary. We believe that, although faculty,² staff, extra curricular activities, etc., see *Green v. County School Bd. of New Kent County*, 1968, 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed.2d 716; *Ellis v. Board of Public Inst. of Orange Cty.*, 5 Cir., 1970, 423 F.2d 203, appear so far to have become unitary, the existence of a substantial number of schools with segregated student bodies, the students of which will for a large part have a completely segregated education, prevents the system from being a unitary one when there is a reasonable alternative plan that will result in a more nearly unitary system. We thus remand this case.³

I.

The Proposals for Unitary System

At the commencement of the 1969-70 school year, Jackson had 10,527 Negro and 10,432 white elementary school students attending 38 elementary schools. ***1366** Of those schools, 13 were all- or virtually all-Negro and 20 were all-or nearly all-white. Of the 5 substantially integrated schools, 3 were predominantly Negro, 2 predominantly white. And Jackson was operating 9 junior high schools (grades 7-9), 2 junior-senior high schools (grades 7-12), and 6 senior high schools (grades 10-12). There were 7,700 Negro and 10,380 white students

enrolled. Of those students, 7,300 (93.5%) Negroes were enrolled in 6 all-Negro schools. All of the white students attended 11 schools ranging from 86.5 to 100 percent white.

A. The Basics of the HEW Plan

The plan suggested by HEW to remedy this is essentially a zone plan. It was constructed on the assumption that other alternatives were foreclosed by state statutory limitations on stategranted financial assistance to local school districts to provide intracity transportation.⁴ In addition, the HEW plan indicated that other limitations 'to developing a plan resulting in total desegregation of all schools in the system were' (1) the size of the district, (2) natural and man-made barriers that constitute safety hazards and restrict mobility,⁵ (3) demographic pattern of the district, (4) lack of a compulsory attendance law, (5) possibility of resegregation and (6) the need to develop a 'plan which would result in the least amount of disruption and which would be implemented immediately.'

B. The Results at the Elementary Level⁶

^[3] The HEW plan was a zoning plan within the framework of the former 1-6 grade structure. The zoning was designed to maximize desegregation and was supplemented by pairing of two schools and a cross-zone assignment of two schools. It was projected that the plan would produce 5 all-white schools and 6 all-black schools with 15 predominantly *1367 white schools and 12 predominantly black schools.⁷

This was basically the plan adopted by the District Court.⁸ But not even these projected results have been achieved. As of March 26, 1970⁹ there were seven elementary schools with all black student bodies and six more in which the student body is made up of at least ninety percent Negro students. In addition there are 6 elementary schools out of a total of 38 that have only white students attending them and two other schools with over ninety percent white student bodies.

C. Results at the Secondary Level

The direct challenge here is not, however, to the elementary system, but is to the school board's modifications of the HEW plan— or more appropriately plans A, B, and C— at the secondary level. (See note 6, supra). The HEW plans were based on principles of pairing and zoning. All three plans resulted in breakdown of the grade structure— 6-3-3— under which the district had previously been operating. Plan B, for which plaintiffs-appellants expressed a preference, proposes geographic zoning with junior high schools continuing to serve one or more of grades 7 through 9. Under Plan B, of

the eleven junior high schools, one would serve grades 7-9, six would serve grades 7-8, and four would serve grade 9 only. Plan B calls for the same type of organization at the high school level— six high schools are to serve grades 10-12, two are to serve grades 11-12, and one grade 10 only.

The modifications proposed by the Board and adopted by the District Court were not really modifications at all. They were instead a completely different plan based on geographic zoning. The zoning was, however, based on the assumption of retaining the District's 6-3-3 grade structure.

After approximately six weeks operation under this plan there were 7537 white students and 8156 Negro students in the District's secondary schools. There were no all-Negro or all-white secondary schools. (See Appendix B). There are, however, at least four schools where the student body is overwhelmingly Negro.¹⁰ In contrast, the projected enrollment under any of the HEW plans would not have produced any virtually all-Negro schools. See Appendices C-E.

II.

Deficiencies in the Present Plan

It is not contended that the school board's zoning plan was gerrymandered to produce little desegregation. But it is contended that the school board plan is not the best available alternative. *Andrews v. City of Monroe*, 5 Cir., 1970, 425 F.2d 1017. And it is contended that the board has not carried 'its * * * heavy burden * * * to explain its preference for an apparently less effective method.' *Green v. County School Board of New Kent County*, 1968, 391 U.S. 430, 439, 88 S.Ct. 1689, 1695, 20 L.Ed.2d 716, 724. It is also claimed that *1368 the school board's secondary plan zone lines were not drawn to promote desegregation as required by this Court. *Valley v. Rapides Parish School Bd.*, 5 Cir., 1970, 423 F.2d 1132; *United States v. Indianola Municipal Separate School Dist.*, 5 Cir., 1969, 410 F.2d 626; *Davis v. Board of School Commissioners of Mobile County*, 5 Cir., 1968, 393 F.2d 690.

^[4] We are of the clear view that the plaintiffs'-appellants' complaints are valid. Jackson Separate School District is not a unitary system. The deficiencies do not lie in the simple existence of some schools that are all or virtually all Negro or white. They lie instead in the fact that a substantial number of Negro students will receive their entire public school education in a segregated school environment,¹¹ which is presumably largely the result of the State's operation of a dual school system with schools located to serve that system. And these deficiencies are critical in light of the existence of readily available

means, which can be implemented without significant administrative, educational, economic, or transportation costs (see note 14, *infra*), to avoid for substantially all the students of this district the school life-long segregated education. See *Andrews v. City of Monroe*, *supra*.

This Court realizes that the time for adoption and effectuation of a plan in this school district was short and that the physical and logistical problems involved were great. And it recognizes that significant progress has been achieved both as to the student body and the other Green factors as a result of the plan put into effect pursuant to the District Court's order. Although under the stringent mandate of *Alexander v. Holmes County Board of Education*, 1969, 396 U.S. 19, 90 S.Ct. 29, 24 L.Ed.2d 19; *Carter v. West Feliciana Parish School Board*, 1970, 396 U.S. 290, 90 S.Ct. 608, 24 L.Ed.2d 477, this was to be a final plan, two things warrant comment. First, the Judge approached it in terms of immediacy with some expectation of correcting deficiencies¹² revealed by actual operation. Second, we have to look on it in terms of its acceptability as a final plan now.

Furthermore, we are not now confronted with the problems and dislocations that a midyear change in the traditional grade structure—6-3-3—would involve. (See III (2), *infra*). Although the changes under the HEW plans for the secondary schools may require future adjustment, they are not educationally, administratively, or economically unreasonable. And it appears that under these *1369 circumstances and in this case, subject, of course, to the experience of actual operation, there is a good possibility that these plans will establish a unitary school system at the secondary level.

III.

Steps to be Taken to Correct Deficiencies

In order to achieve a unitary system it is necessary that steps be taken immediately:

¹⁵¹ 1. A majority to minority transfer rule¹³ must be adopted and all transferring students must be given transportation if they desire it. As approved in *Ellis v. Board of Public Inst. of Orange Cty.*, 1970, 423 F.2d 203, the transferee is to be given priority for space and thus the transfer is not to be dependent on space being available. See also *Taylor v. Ouachita Parish School Bd.*, 5 Cir., 1970, 424 F.2d 324.

2. Second, the district is to adopt one of the presently available HEW plans for the secondary level for use in the 1970-71 school year. These are the only currently

available plans that give any promise of presently ending the dual system.¹⁴ *United States v. Board of Education of Baldwin Cty.*, 5 Cir., 1970, 423 F.2d 1013; *Banks v. Claiborne Parish School Board*, 5 Cir., 1970, 425 F.2d 1040. The plan adopted shall remain in effect until, after substantial operation under the plan during the 1970-71 school year, it can be shown that modifications¹⁵ are needed and there is a finding that such modifications will not tend to reestablish a dual school system or that operation under the plan has not in fact produced a unitary system. We specify July 1, 1970¹⁶ as the date to be fixed by the District Court for making pupil assignments for the 1970-71 school year and notifying parents of those assignments.

3. The District Court shall without delay initiate proceedings to eliminate the dual system which still remains in the elementary level. The District Court shall call for new proposals from the parties, HEW, and the Bi-Racial committee.

*1370 It is evident that the factors delineated by the HEW plans as reasons for not more fully desegregating the elementary level cannot justify this continued segregation. And it is also evident that the burden will be heavy on the school district to find alternatives that hold promise of disestablishing the dual system now. And the District Court shall make findings of fact that specifically evaluate the alternatives in terms of cost as well as administrative, educational, or economic factors bearing on the elimination of the dual system. The findings shall specifically include the reasons, if any, for the continuation of any all Negro or all white schools.¹⁷ The District Court shall expedite this proceeding and shall have completed all findings and entered all orders by June 15, 1970. The time for assignments and notification pursuant to this order is, as in paragraph 2 above, to be on July 1, 1970. Further proceedings in the District Court are to conform to part III of *Singleton v. Jackson Municipal Separate School District*, 5 Cir., 1969, 419 F.2d 1211 (consolidated cases en banc).

4. Following the pattern of *Ellis*, *supra*, and *United States v. Hinds County School Bd.*, 5 Cir., 1970, 423 F.2d 1264, a Bi-Racial committee is to be constituted by the District Court from names submitted by the parties to this suit. The number of members is to be left to the District Court, but there shall be no more than 40 nor less than 10 members. The membership is to be divided equally between whites and Negroes. The chairmanship is to alternate annually between a white chairman and a Negro chairman. This committee is to recommend to the school board ways to attain and maintain a unitary system.

5. Finally, the District Court is to retain jurisdiction of this

case and the school board and the Bi-Racial committee are to make bi-annual reports— on December 1 and April 1— to it on the maintenance of a unitary school system.¹⁸ Such reports are to be made until the District *1371 Court finds that the dual system will not be or tend to be reestablished.

Reversed and remanded.

Appendix A

Projected Enrollment under HEW Plan

for Elementary Schools

Building

School	White	Negro	Capacity
Sykes	544	0	576
Lee	370	0	416

Marshall	600	0	576
Baker	310	24	512
Wilkins	600	16	416
Key	513	68	576
Lester	320	152	480
Clausell	47	165	224
Isable*	0	640	1120
Reynolds	0	1009	1088
George	100	106	192
Martin	76	220	384
Lake	600	0	576
Whitfield	282	166	416
Barr	123	90	192
Poindexter	47	102	192
Robertson	6	575	544

Davis	46	182	224
Jones	70	1171	1248
Galloway	185	262	448
Brown	0	575	832
Power	383	216	544
Raines	780	72	736
French	354	83	576
Johnson	71	1023	1088
Duling	194	227	448
Casey	420	0	576
Bradley	33	293	384
Smith	0	917	928
Walton	0	527	1120
Dawson	65	387	608
Morrison	0	338	616

Watkins	773	291	608
Boyd	395	127	576
Green	380	149	576
McWillie	624	74	620
Spann	539	39	540
McLeod	500	66	608

Appendix B

JACKSON PUBLIC SCHOOLS

Jackson, Mississippi

Student Enrollment as of March 26, 1970

SCHOOL

Elementary	Negro	Other	Total
Baker	4	321	325
Barr	41	83	124
Boyd	168	420	588
Bradley	339	14	353
Brown	658	0	658
Casey	0	451	451

Clausell	201	5	206
Davis	309	55	364
Dawson	421	10	431
Duling	126	115	241
French	138	313	451
Galloway	388	170	558
George	67	111	178
Green	123	480	603
Isable	760	0	760
Johnson	857	54	911
Jones	1248	10	1258
Key	0	487	487
Lake	0	609	609
Lee	0	365	365
Lester	99	236	335

Marshal	0	569	569
Martin	207	20	227
McLeod	50	669	719
McWillie	64	502	566
Morrison	481	0	481
Poindexter	91	85	176
Power	37	368	405
Raines	131	502	633
Reynolds	999	0	999
Robertson	317	0	317
Smith	1024	0	1024
Spann	47	491	538
Sykes	0	457	457
Walton	852	0	852

Watkins	132	517	649
Whitfield	163	238	401
Wilkins	16	490	506
TOTAL	10558	9217	19775

Secondary	Negro	Other	Total
Bailey	514	408	922
Blackburn	593	34	627
Chastain	523	660	1183
Enochs	562	101	663
Hardy	424	758	1182
Peeples	218	864	1082
Powell	796	673	1469

Rowan	609	31	640
Whitten	346	579	925
Brinkley	1076	2	1078
Callaway	86	1027	1113
Central	192	564	756
Hill	376	50	426
Lanier	713	7	720
Murrah	180	864	1044
Provine	278	637	915
Wingfield	51	897	948
TOTAL	7537	8156	15693

TOTAL ELEMMENTARY 19775

TOTAL SECONDARY 15693

GRAND TOTAL

35468

Appendix C

Projected Secondary Enrollment

Under HEW Plan A

Junior High

				Building
School	Grades	White	Negro	Capacity
Whitten	7-8	370	165	868

Peeples	7-8 801	282	1286
Isable-Hill	9 501	190	Hill 200
			Isabell 500
Blackburn	7-8-9 268	756	1458
Hardy	7-8 572	697	1278
Enochs	9 248	293	830
Bailey	7-8 692	632 ₂₁	1310
Rowan	9 285	281	996
Chastain	7-8 823	482	1234
Powell	9 509	379	1574
Callaway	7-8 456	402	550

Senior High

Hill	10 532	167	894
Wingfield	11-12 924	289	894
Provine	10-12 873	533	1180
Murrah	11-12 772	531	1180

Brinkley	10	875	762	1154
Callaway	11-12	851	759	448

Appendix D

Projected Secondary Enrollment

Under HEW Plan C

School	Grades	White	Negro	Building
				Capacity
Peeples-Whitten	7-8	1382	438	2154
Enochs	7-8	128	408	830
Hardy	7-8	549	587	1286
Bailey-Rowan	7-8	1243	983	2306
Chastain	7-8	884	546	1434

Hill-Isable	9-10	1022	401	1374
Blackburn	9-10	691	869	1458
Brinkley	9-10	645	531	1154
Powell	9-10	1085	708	1574
Wingfield	11-12	825	338	894
Provine	11-12	507	581	1180
Murrah	11-12	707	502	1180
Callaway	11-12	779	584	998

Appendix E

RACIAL COMPOSITION OF STUDENT BODIES

JACKSON MUNICIPAL SEPARATE SCHOOL

DISTRICT

SCHOOLS

Under HEW Plan B

JUNIOR HIGH:	WHITE	NEGRO
Whitten	370	165
Peebles	801	282
Isable-Hill	501	190
Blackburn	268	756
Hardy	572	697
Enochs	248	293
Bailey	942	682
Rowan	285	281
Chastain	823	482
Powell	509	379
Callaway	206	350
Lanier	0	0

SENIOR HIGH:

Brinkley	627	629
Callaway	853	441
Murrah	707	625
Provine	741	521
Hill	456	169
Wingfield	730	276

MAGNET HIGH SCHOOLS:

Central	823	532
Lanier	734	339

***1372 ON PETITION FOR REHEARING AND
PETITION FOR REHEARING EN BANC**

PER CURIAM:

The Petition for Rehearing is denied and the Court having been polled at the request of one of the members of the Court and a majority of the Circuit Judges who are in regular active service not having voted in favor of it, (Rule 35 Federal Rules of Appellate Procedure; Local

Fifth Circuit Rule 12) the Petition for Rehearing En Banc is also denied.

COLEMAN, Circuit Judge, voted in favor of an en banc rehearing.

All Citations

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Footnotes

- 1 This is one of a long series of cases involving the Jackson Municipal Separate School District's operation of a dual system of schools, single day, after school and night school. See Evers v. Jackson Municipal Separate School Dist., 5 Cir., 1964, 328 F.2d 1364 (Singleton I); Singleton v. Jackson Municipal Separate School Dist., 5 Cir., 1965, 348 F.2d 729 (Singleton I); Singleton v. Jackson Municipal Separate School Dist., 5 Cir., 1966, 372 F.2d 1364 (Singleton II).
- 1a United States v. Jefferson County Board of Education, 5 Cir., 1966, 372 F.2d 1364.
- 2 We note that the District Court's order providing for the reassignment of faculty and staff to the elementary level focus meet the Singleton III faculty-staff assignment ratio, which by its terms prescribed ratios for the 1969-70 school year. But it is plain that resegregation can occur as much from faculty assignments as from student assignments. And it is plain that any future substantial deviations from the Singleton III ratio would be a violation of the Constitution. There is a unitary system and that such deviations will not tend to reestablish a unitary system. We have found that the capacity of the s prejudgment of the merits because plaintiffs-appellants have suggested in the comments requested by the District Court (see notes 3, 4, 5, and 6, infra) that there is a significant possibility that the school district will abandon these ratios for the 1970-71 school year.
- 3 Under the stringent requirements of Alexander v. Holmes County Board of Education, 396 U.S. 19, 90 S.Ct. 29, 24 L.Ed.2d 19, which this court has carried out in United States v. Hinds County School Board, 5 Cir., 1965, 423 F.2d 1364, this court has judicially determined that the ordinary procedures for appellate review in school desegregation cases have to be suitably adapted to assure that each system whose case is before us 'begin immediately to operate as unitary school systems'. Upon consideration of the record the court has proceeded to dispose of this case as an extraordinary matter. Rule 21 in the ladder from the Court has, however, solicited supplemental briefs and data and has all necessary material for consideration and decision. (See notes 4, 5, and 6 infra)
- 4 At the Court's request counsel for plaintiffs-appellants and the school board supplied the Court with copies of the state statutes that restrict financial assistance to local districts for intercity bussing. Miss.Stat. Ann. § 6336-01. The court asked to comment on the constitutionality of the statutes and counsel agreed that the statutes of the state and the basic from any constitutional defects since the school district has the power to provide transportation to pupils not change in state-aided bussing (Miss.Stat. Ann. § 6336-01).
- 5 Counsel were also asked to comment on the extent to which these barriers are proposed by the HEW plan. The following is part of the statement of Dr. H. B. Brown, director of the HEW plan. The statement was submitted pursuant to the Court's request. *** 'We did not consider that there were any natural or manmade barriers in Jackson as proposed by the HEW plan. However, at the elementary level the following such barriers exist, and we are considering them. 1) The assignment of members of the faculty in South Jackson. This four lane highway prevented us from assigning additional teachers to the Isable. We considered the installation of a portable classroom. 2) There is an airport-industrial complex-golf course, located in the midwestern section of the Town. This area limited our alternatives to some extent. 3) There is a railroad freight yard in the inner city which limited our alternatives to some extent.'

6 Plaintiffs-appellants' original complaint was that the dual system of complaints regarding the elementary level were concerned only between the elementary and secondary level as in the Isable-Hill elementary and 9-10 grade school. As we did in Singleton I and II, we have not made a separate inquiry into the school board's operation of the dual system. We do not limit ourselves with the overall workings of the system— all aspects of

7 The projected enrollment for each elementary school under this I

8 The board's proposed modifications at the elementary level focus Negroes assigned to 4 predominantly white schools be reduced to 10% of the total enrollment. The board also proposed that the enrollment of Negroes in the Isable-Hill elementary school be reduced to 10% of the total enrollment. The board also proposed that the enrollment of Negroes in the Isable-Hill elementary school be reduced to 10% of the total enrollment. The board also proposed that the enrollment of Negroes in the Isable-Hill elementary school be reduced to 10% of the total enrollment.

9 At the Court's request the school board supplied the Court with This information is set out in Appendix B.

10 Blackburn Junior High has 423 Negroes and 34 whites, Rowan J School has 107 Negroes and 2 whites. Lower elementary school has 71 Negroes and 1 white. Although there is no formal feeder system in the attendance zone lines for elementary and secondary schools in about 3500 Negro elementary students attending all Negro elementary schools.

11 It is apparent from reading the District Court's opinion that the p importance. It seems clear that this was the basic reason the '1 to provide transportation to pupils not change in the grade st He said:

'The Board modification (as to junior high schools) would retain formulating a new structure for a different structure as proposed by the HEW plan. The statement was submitted pursuant to the Court's request. ***

12 Changes as proposed by the HEW plan would require an ex facilities and registering pupils. 1) The assignment of members of the faculty in South Jackson. This four lane highway prevented us from assigning additional teachers to the Isable. We considered the installation of a portable classroom. 2) There is an airport-industrial complex-golf course, located in the midwestern section of the Town. This area limited our alternatives to some extent. 3) There is a railroad freight yard in the inner city which limited our alternatives to some extent and that its omission was inadvertent.

14 As illustrated by the following chart the HEW plans will result in no major transportation problems for the students transported by the system.

Plan	Students Trans-ported	Notes
Freedom of Choice		VI. State whether all facilities such as gymnasiums, auditoriums, and Give brief description of any present or proposed construction or VIII.
(Prior to Remand	2379	(a) State whether the school board has sold or abandoned any sc more than \$500.00 since this court's order of November 7, 1969. IX.
HEW A	3567	(a) Give a brief description of the work of the bi-racial committee (b) Copies of all recommendations made by the Bi-Racial commit See United States v. Hinds County School Board, 5 Cir., 1969, 417
HEW B	2234	
HEW C	*	Not considered on all black school under the HEW plan because (b) complex.
(figures for the present plan are	(W)94	
unavailable)	2, (N)682, option	

In fact, HEW Plan B would reduce the transportation burden from that under the freedom of choice plan. Moreover, nearly all problems of building capacity can be solved by the shifting of presently available portable buildings. And there are no major problems of either economics or administration presented by the plan.

15 In connection with both the mandatory revision at the elementary level and the likelihood of some modifications being proposed for the secondary level, it bears emphasizing that Ellis does not stand for the universal proposition that equidistant or capacity zoning establishes unitary schools in all cases. This is the clear holding of our recent case of Andrews v. City of Monroe, 5 Cir., 1970, 425 F.2d 1017 which quotes the following from Ellis: "Under the facts of this case, it happens that the school board's choice of a neighborhood assignment system is adequate to convert the Orange County school system from a dual to a unitary system. This decision does not preclude the employment of differing assignment methods in other school districts to bring about unitary systems. There are many variables in the student assignment approach necessary to bring about unitary school systems. The answer in each case turns, in the final analysis, as here, on all of the facts including those which are peculiar to the particular system." Andrews, supra, 425 F.2d at 1019, quoting Ellis, supra, 423 F.2d at 208.

16 Pursuant to letter request by the Court, see notes 4, 5 and 6, supra, counsel inform us that the present school year ends on June 4, 1970, and that classes begin for the 1970-71 school year on September 8, 1970.

17 On this record in this posture, we do not prejudge whether, to what extent, or under what circumstances such conditions may exist and satisfy the requirements of a unitary system.

18 The reports should include the following information:

I.

(a) The number of students by race enrolled in the school district;

(b) The number of students by race enrolled in each school of the district;

(c) The number of students by race enrolled in each classroom in each of the schools in the district.

II.

(a) The number of full time teachers by race in the district;

(b) The number of full time teachers by race in each school in the district;

(c) The number of part time teachers by race in the district;

(d) The number of part time teachers by race in each school in the district.

III.

Describe the requests and the results which have accrued, by race, under the majority to the minority transfer provision which was a part of this court's order of November 7, 1969.

IV.

State the number of inter-district transfers granted since this court's order of November 7, 1969, the race of the students who were granted such transfers, and the school district to which the transfers were allowed.

V.

State whether the transportations system, if any, in the district is desegregated to the extent that Negro and white students