

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ROBERT L. ADAMS, JR., et al.,	§	
	§	
Plaintiff,	§	
	§	
UNITED STATES OF AMERICA,	§	
	§	
Plaintiff-Intervenor,	§	CIVIL ACTION No. 6:04-cv-291-LED
	§	
v.	§	
CHARLES F. MATHEWS, Superintendent	§	
of the LONGVIEW INDEPENDENT SCHOOL	§	
DISTRICT, LONGVIEW INDEPENDENT	§	
SCHOOL DISTRICT, et al.,	§	
	§	
Defendants.	§	

JOINT MOTION FOR DECLARATION OF UNITARY STATUS

TO THE HONORABLE LEONARD DAVIS:

Plaintiff-Intervenor United States of America (“United States”) and Defendant Longview Independent School District (“District” or “LISD”) respectfully file this Joint Motion for Declaration of Unitary Status and in support of this Joint Motion state as follows:

I. INTRODUCTION

On January 20, 1970, this Court entered an order requiring LISD to implement a Desegregation Plan. The Desegregation Plan required, among other things, LISD to create attendance zones and transport students from one attendance zone to another in order to further the desegregation of its schools. *See* Consent Order, ECF 42 (01/24/11). Since that time, the District has made significant changes to its student assignment policies and practices, to eliminate the vestiges of discrimination and foster racial desegregation throughout its schools.

On February 28, 2014, this Court entered an Agreed Order for Declaration of Partial Unitary Status and Partial Dismissal, finding the District unitary with respect to the following *Green* factors: facilities and resource allocation; transportation; extracurricular activities; and staff assignments. *See* Agreed Order, ECF 71 (2/28/14). Later that year, the Court entered a Final Consent Decree setting forth the District's remaining obligations with respect to student assignments and imposed specific reporting and staff training requirements to ensure compliance with the student assignment requirements. *See* Order, ECF 81 (12/22/14).

In May 2017, the Court granted the District's request to modify the Final Consent Decree, allowing the District to seek a federal Magnet Schools Assistance Program grant to expand its magnet programs. *See* Order, ECF 87 (5/18/17). LISD sought expanded magnet and other specialized education offerings, in part, to foster further racial diversity in the District. Specifically, the Court allowed LISD to create two new Montessori charter schools; establish science, technology, engineering, arts, and math (STEAM) programs at Ned E. Williams Elementary, Bramlette Elementary, and Judson Middle School; and expand the International Baccalaureate programs at Forest Park Middle School and Longview High School. All other provisions of the Final Consent Decree remain in full effect.

According to the terms of the Final Consent Decree, the District's obligations expire on December 22, 2017 and the United States "shall not oppose LISD's motion for a declaration of unitary status provided that there are no outstanding disputes pending before the Court concerning compliance with th[e] Final Consent Decree." Because there are no

disputes pending between the United States and the District, the United States does not oppose this motion. Accordingly, as the District's obligations have been fulfilled and expire on December 22, 2017, the District herein seeks a declaration of full unitary status and dismissal of the above-captioned case.

II. UNITARY STATUS

To obtain a declaration of unitary status, the District must show that it has: (1) fully and satisfactorily complied with the court's desegregation orders for a reasonable period of time; (2) eliminated the vestiges of its past *de jure* discrimination 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 that were the predicate for judicial intervention in the first instance.¹ In assessing whether a school district is unitary, the Court must examine "every facet of school operations"² to determine whether the District "has done all that it could to remedy the segregation caused by official action."³

III. STIPULATION FOR FULL UNITARY STATUS:

Nearly half a century has passed since the Court ordered the District to desegregate. During this period, under the supervision of this Court, the District has taken a variety of measures calculated to rid vestiges of past discrimination, "root and branch."⁴ These measures, some of which remain in place today, have included expanded transportation,⁵

¹ See *Missouri v. Jenkins*, 515 U.S. 70, 87-89 (1995); *Freeman v. Pitts*, 503 U.S. 467, 491-92, 498 (1992); see also *Anderson v. Sch. Bd. of Madison Cnty.*, 517 F.3d 292, 297 (5th Cir. 2008).

² *Board of Educ. v. Dowell*, 498 U.S. 237, 250 (1991) (quoting *Green v. County Sch. Bd.*, 391 U.S. 430, 435 (1968)).

³ See *Anderson* 517 F.3d at 298.

⁴ *Green*, 391 U.S. at 437-38.

⁵ See LISD's Plan of Desegregation of Jan. 6, 1970, ¶¶ 4, 8.

rezoning,⁶ and new school construction and consolidation.⁷ Additionally, the District has successfully implemented -- and continues to build upon -- school choice programs to foster student integration and diversity.

Through the Declaration of Partial Unitary Status granted in 2014, the Court determined that the District was unitary with respect facilities and resource allocation, transportation, extracurricular activities, and staff assignments. Additionally, the Final Consent Decree imposed staff training obligations to ensure the student assignment requirements were communicated to relevant employees, as well as reporting requirements to ensure compliance. These final requirements have for the past three years been governed by the Final Consent Decree which was the product of an agreed motion submitted by the District and the United States.

To further student desegregation, the District has implemented open enrollment policies that encourage majority-to-minority transfers, a robust gifted and talented program, and specialized programs within the District, such as the International Baccalaureate Program, Early Graduation High School, and the new East Texas Prep Montessori Academy. These programs not only promote intra-district transfers, but also help attract a diverse population of students to who seek inter-district transfers. Building upon the successes of the existing magnet programs, last year the District devised a robust magnet and charter campus expansion plan to encourage student transfers into those programs, fostering greater desegregation. This plan received a United States Department of

⁶ See *id.* ¶¶1–4; Consent Order, Aug. 4, 2008, ECF No. 20; Consent Order, Jan. 24, 2011, ECF No. 42.

⁷ See Ex. C, ¶ 5; Consent Order, Aug. 4, 2008, ECF No. 20; Consent Order, Jan. 24, 2011, ECF No. 42.

Education Magnet Schools Assistance Program grant of fifteen million dollars awarded over the course of five years.

To guarantee teachers and administrators are properly informed regarding the District's efforts to further desegregation, the Final Consent Decree requires the District to train staff in the following subjects: the District's transfer policies, gifted and talented admissions requirements, student discipline policies, and admissions requirements to the Hudson Planned Enrichment Program ("Hudson PEP"). Uniform instruction across campuses has been achieved through video training modules that are administered to all faculty on a yearly basis. The videos, which were supported and approved by the United States, are posted online on the District's website in order to be accessible by both faculty and community members.

The District has implemented student assignments that promote diversity through various programs and policies designed to erase all vestiges of past discrimination. The Department of Education through the Magnet Schools Assistance Program requires the District to implement a voluntary desegregation plan as a condition of continued grant eligibility.

Based on a review of the District's policies and practices, and the impact of those policies and practices on the desegregation of LISD's schools, the parties agree and stipulate that no vestiges of the former *de jure* dual school system remain in LISD. It appears that the District has complied with its desegregation obligations for a reasonable period of time and is able to demonstrate a good faith commitment to the whole of the Court's orders and to those provisions of the law and the Constitution, which were the predicate for judicial

intervention in the first place. Accordingly, the parties agree that LISD should be granted a declaration of full unitary status and that the above-captioned case should be dismissed.

IV. CONCLUSION:

Based on the stipulations set forth above, the parties respectfully move for a declaration of full unitary status for LISD and dismissal of the above-captioned case. A proposed Order is filed with this Joint Motion.

Respectfully Submitted,

UNITED STATES OF AMERICA

LONGVIEW INDEPENDENT SCHOOL
DISTRICT

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Acting Assistant Attorney General

Shaheena Simons, Chief

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ATTORNEY FOR DEFENDANT

ATTORNEYS FOR
PLAINTIFF-INTERVENOR

CERTIFICATE OF CONFERENCE

I hereby certify that on January 26, 2018, I conferred with counsel for the United States regarding the filing of this motion and the relief requested therein. Counsel for the United States stated that his client is not opposed to this motion.

/S/ Richard A. Morris
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2018, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system and notice was electronically provided to the following CM/ECF system participants:

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Educational Opportunities Section 950 Pennsylvania Ave., N.W.
Patrick Henry Building, Suite 4300 Washington, DC 20530

/S/ Richard A. Morris
Attorney for Defendant

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**ORDER ON JOINT MOTION FOR
DECLARATION OF UNITARY STATUS AND DISMISSAL**

Upon consideration of the Joint Motion for Declaration of Unitary Status and Dismissal filed by Plaintiff-Intervenor United States of America and Defendant Longview Independent School District, et al., and the full record of this case, it is the opinion of this Court that the Joint Motion should be GRANTED.

IT IS THEREFORE ORDERED that Defendant Longview Independent School District be declared fully unitary and the above-captioned case be DISMISSED.