



## **Louisiana Desegregation Case Studies:** ***East Baton Rouge, West Carroll, and Tangipahoa\****

### **East Baton Rouge Parish School System** *Davis v. East Baton Rouge Parish School Board*<sup>1</sup>

East Baton Rouge Parish School System (EBRPSS) has the largest student population in Louisiana. EBRPSS also has the distinction of being party to one of the longest running school desegregation cases in the nation. Individual students and the U.S. Department of Justice filed the lawsuit against the East Baton Rouge Parish School Board in 1956, and the litigation was finally dismissed in 2003, lasting a total of 47 years.

#### 1956-1981: Resisting desegregation

From 1956 until 1981, the desegregation litigation process in East Baton Rouge can be characterized by a resistance to meaningful desegregation. During this period of time, the school board refused to implement any changes that would actually effectuate desegregation. Instead, the board offered token policy changes in order to claim they were complying with the constitutional mandate to remedy segregation. In 1956, the lawsuit was filed in U.S. District Court and assigned to Judge E. Gordon West. It was not until 1963 that the board implemented a “freedom of choice” desegregation plan. This plan allowed students in East Baton Rouge to choose to attend any school in the parish school system. This voluntary choice plan did not result in desegregation, but merely allowed students to voluntarily remain segregated. In 1969, the NAACP became involved in the litigation when two officers of the Baton Rouge chapter of the NAACP joined as plaintiff intervenors in the litigation. That same year, the Fifth Circuit decided that the voluntary choice plan was unacceptable and required further action by the board to desegregate. In response, the board eliminated the freedom-of-choice provision and created a biracial committee to help develop a new desegregation plan. The committee created a plan based on new neighborhood student attendance zones and voluntary majority-to-minority transfer provisions, which allowed any student attending a school where his or her race was the majority, to transfer to a school where his or her race was the minority. The plan was accepted by the school board and approved by Judge Parker in 1970. The plan, with its voluntary element, was ineffective in desegregating East Baton Rouge Parish schools. In view of the still pervasive segregation within the district, in 1974, the NAACP filed a motion for further relief in an attempt to force the school board to come up with a new desegregation plan. However, instead of ordering the board to come up with a new plan, Judge West granted EBRPSS unitary status in 1975. But, on appeal, the Fifth

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\*The data and timelines in these case studies are accurate as of August 2010. Please note that all information was gathered from a variety of sources, including newspaper articles, court documents, and government documents. No representatives of any of the districts were personally interviewed or contacted by the Cowen Institute.

<sup>1</sup> 214 F. Supp. 624 (E.D. La. 1963), Docket No. 1662.





Circuit Court reversed Judge West’s decision. In light of this reversal, in 1979, the case was re-assigned to district court judge John Parker, who ordered the school board to submit a revised proposal for a desegregation plan. Judge Parker encouraged the parties in the case to create a shared consent agreement, but the school board and the plaintiffs were unable to do so. Instead, both the government and the school board submitted separate plans to Judge Parker for consideration.

#### 1981-1996: Desegregation through mandatory busing

Finding both plans inadequate, in 1981, Judge Parker ordered the school board to abide by his own plan. The plan mandated drastic changes in the operation of the school system, finally effecting noticeable desegregation. The plan called for the closure of thirteen schools, reassignment/busing of students, closure of temporary buildings (which had been used to house an influx of white students at “white” schools in an effort to keep them from having to attend “black” schools), and strict compliance requirements for the school board (the school board would now be required to receive permission from the court for any action that could affect desegregation—e.g., school openings, school closures, etc.). This plan remained in effect until 1996.

#### 1996-2001: Desegregation through magnet schools

After fifteen years of working under Judge Parker’s desegregation order, the school board and the citizens of East Baton Rouge Parish became weary of the desegregation plan and desired to end the litigation, and its most contentious component—student busing. So, in 1996, the board began to actively pursue unitary status and a resolution to the lawsuit. The school board came up with a proposed desegregation plan that returned the district to neighborhood schools and relied primarily on magnet schools to achieve desegregation. After extensive negotiation between the board, the plaintiffs, the Department of Justice, and the NAACP, the parties submitted a shared consent agreement to Judge Parker, which he then approved. Judge Parker issued the consent order in August of 1996, bringing busing within the district to an end. The plan had community-based attendance zones, and created magnet schools to attract motivated students of both races. The plan also included a voluntary majority-to-minority transfer option for students, and detailed extensive facilities improvements for traditionally neglected schools within the district. Under the terms of the agreement, both parties could jointly petition to dismiss the lawsuit after the 2001-2002 school year, or the school board could unilaterally move to dismiss the lawsuit after the 2004-2005 school year. If, at that time, the school board had complied with the terms of the agreement in good faith, the judge would grant EBRPSS unitary status.

#### 2001-2007: Resolving the desegregation lawsuit

In 2001, Judge Parker quit the case. Citing the school board’s reluctance to cooperate and comply with his orders, Judge Parker exercised his right as senior judge to delegate the troublesome case.



The case was reassigned to Judge James Brady. Shortly thereafter, notwithstanding the dates specified in the agreement, the school board unilaterally petitioned for unitary status in February 2002, initiating the final resolution of the desegregation lawsuit. Judge Brady readily enforced the time provision in the 1996 consent order, mandating that the school board could not unilaterally move for unitary status until the end of the 2004-2005 school year. Further, Judge Brady commented that the district was far from achieving unitary status, as it had neglected to fulfill several of the duties outlined in the consent order. Consequently, the judge ordered the parties into mediation to resolve the disputes under the consent order. As a result of these mediations, the parties adopted a new settlement agreement in July 2003. The settlement agreement included the following provisions: continuing and expanding the system's magnet school program; implementing specific racial quotas for student populations at magnet schools; appointing a "magnet program evaluator" to oversee the magnet program as a tool for desegregation; continuing and refining the voluntary majority-to-minority transfer plan; implementing new enrollment caps for non-magnet schools; removing temporary buildings; completing promised construction projects; investigating segregation within extracurricular activities; hiring more teachers to reduce class size; and expanding the school system's gifted and talented program. Judge Brady approved the agreement, dismissed the lawsuit, and granted EBRPSS unitary status. However, under the terms of the agreement, the court retained jurisdiction and oversight of the school system until July 2007 in order to enforce the provisions of the agreement. Finally, in July 2007, the court officially terminated its oversight of the district.

#### After the desegregation litigation is resolved

Before the settlement agreement, the school board was unable to make major decisions for the district without the permission of the federal judge overseeing the case. As a result, the desegregation lawsuit was a constant source of divisiveness and squabbling within the community. In the decades leading up to the final settlement agreement, the parish's white student population steadily declined, making it more difficult to achieve racial balance within the schools. Many white families moved outside of the parish or transferred their students to private schools as a result of the 1981 desegregation order requiring busing throughout the district. The district may also have lost white students whose parents became frustrated with the school board's inability to improve and change the school district without having to vet all of its decisions before the federal judge. Thus, the settlement agreement in East Baton Rouge Parish was hailed as a new beginning, allowing the school board to make plans in 2003 for considerable construction projects within the district.

However, ending the desegregation litigation was hardly the "magic pill" the school board may have hoped it would be. While district autonomy, meaningful desegregation, and the termination of expensive legal representation were all valuable benefits of the settlement agreement, EBRPSS continued to have problems. The tenuous racial balance achieved by the 2003 settlement agreement has been undermined by the splintering of the EBRPSS. In 2003, both the Baker and Zachary communities split from EBRPSS to form their own school systems. Likewise, the Central



community left the EBRPSS to form its own school system in 2007. The new Central Community School District took a sizeable proportion of EBRPSS's white students, decreasing the percentage of white students in EBRPSS to 11% in the fall of 2007. And, since the district is no longer under a desegregation order, the remedies available to the district to maintain racial balance are limited. By law, a district no longer under a desegregation order is prohibited from using racial quotas or any other racial criteria to maintain desegregation (EBRPSS had been using racial criteria to ensure diversity within its magnet schools). However, in an effort to maintain diversity, the district currently uses socioeconomic status in magnet school admissions criteria. Additionally, although the school board freed itself from the federal court's restrictions, the state of Louisiana has found the board's management of the district to be unsatisfactory. Currently, the state runs seven charter schools within the district, has management agreements with four schools, and has memoranda of understanding with another three schools.

Despite these failures, it is perhaps valuable that the failures are entirely attributable to the actions of elected board members. Without federal judicial oversight, the board is no longer able to blame its woes on the desegregation lawsuit. The board members are now fully accountable for the achievements and shortcomings of the district's schools, and likewise, have the freedom to take action to effect the district's success.



### **East Baton Rouge Desegregation Timeline**

- 1956 • Plaintiffs file the desegregation lawsuit, *Davis v. East Baton Rouge Parish School Board*; case assigned to Judge E. Gordon West
- 1960 • Judge West issues a desegregation order prohibiting EBRPSB from operating a racially segregated school system
- 1963 • The school board implements a “freedom of choice” desegregation plan
- 1969 • The United States Fifth Circuit Court rules that a freedom-of-choice plan is unacceptable when it does not effectively desegregate the school system
  - The NAACP becomes involved in the litigation as two local officers are allowed to intervene as plaintiffs in the lawsuit
- 1970 • The school board establishes a biracial committee to create a plan to effectuate desegregation; the district court approves the “neighborhood zoning”/voluntary majority-to-minority transfer plan
- 1974 • NAACP plaintiffs file a motion for further relief against the school board
- 1975 • Judge West denies the motion for further relief and grants EBRPSS unitary status
  - On appeal, the Fifth Circuit Court reverses the district court’s decision
- 1979 • The lawsuit is reassigned in district court to Judge John Parker
- 1980 • Judge Parker orders the school board to submit a revised proposal for a desegregation plan
- 1981 • Both the school board and the government submit desegregation plans to the judge; Judge Parker rejects both plans and imposes his own school closure/busing desegregation order
- 1996 • The school board begins major effort to create a new desegregation plan to resolve the litigation and end busing
  - The school board votes and accepts consent agreement negotiated between the parties
  - Judge John Parker accepts the agreement and issues a consent order, ending busing and creating magnet schools
- 2001 • Judge Parker quits the case; the case is reassigned to Judge James Brady
- 2002 • The school board unilaterally moves for unitary status (ahead of consent order date)
  - The court rules to enforce the time provision under the consent order and orders the parties into mediation to resolve their disputes
- 2003 • All parties adopt a shared settlement agreement
  - Judge Brady approved the settlement agreement, dismisses the lawsuit, and declares EBRPSS “unitary;” court retains jurisdiction over EBRPSS until July 2007 to enforce the provisions of the agreement
- 2007 • EBRPSS’s desegregation litigation is officially resolved in all aspects; federal judicial oversight of the district ends



**West Carroll Parish School Board** *United States v. West Carroll Parish School Board*<sup>2</sup>

West Carroll Parish is a rural parish in Northeast Louisiana, bordered to the north by the State of Arkansas with a majority population of white residents<sup>3</sup>. On February 10, 1969, the U.S. Department of Justice filed a complaint against the West Carroll Parish School Board (WCPSB), alleging the board was operating a segregated, “dual” school system. Judge Ben Dawkins, Jr. of the U.S. District Court of the Western District of Louisiana agreed, and on June 5, 1969, he ordered the WCPSB to submit a desegregation plan to the court. The board proposed a desegregation plan (the “1969 Plan”) that established student attendance zones, and on August 1, 1969, Judge Dawkins accepted the plan and issued a desegregation order. However, the plan only partially desegregated the school district—of the district’s then-existing nine schools, six of the campuses were assigned mixed race student populations, while the remaining three schools retained all white student populations.

**Subsequent alterations to the “1969 Plan”**

In 1970, at the government’s request, the plan was modified to add provisions for voluntary majority-to-minority transfers, regulation of inter-district transfers, and the desegregation of district staff, faculty, and extracurricular activities. In 1971, the Supreme Court decided *Swann v. Charlotte-Mecklenburg Bd. of Education*<sup>4</sup>. The *Swann* decision gave the Supreme Court’s endorsement to court-mandated desegregation plans that utilized “busing” and racial quotas to achieve desegregation. In light of this decision, the Department of Justice and plaintiffs in desegregation lawsuits appealed to the district courts to alter existing desegregation orders that used less-effective means of desegregation. However, the government and plaintiffs in the West Carroll Parish case did not request the court to alter the plan to incorporate busing or racial quotas. In fact, the court only made two small changes to the desegregation order throughout the next thirty years. In 1976, the court granted the board permission to consolidate Pioneer elementary school with Pioneer High School to create a Pioneer K-12 campus. In 1989, the Educational Opportunities Section of the Department of Justice’s Civil Rights Division received a complaint that WCPSB was violating the 1970 Consent Order by allowing white students from neighboring Arkansas to attend West Carroll’s schools. The DOJ and WCPSB entered into negotiations and in 1991 produced a revised consent order which included residency verification and stricter transfer provisions. In addition, the revised order included the board’s unrelated request to reduce the Pioneer campus to a K-8 school and reassign the Pioneer high school students to Epps High School.

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<sup>2</sup> *Conley v. Lake Charles Parish School Board*, 303 F. Supp. 394 (W.D. La 1969), Docket No. 14428.

<sup>3</sup> According to the census of 2000, the population of West Carroll Parish is approximately 79% white, 19% black, and 2% other races.

<sup>4</sup> 402 U.S. 1 (1971).



However, in 2001, the DOJ once again received complaints that WCPSB was violating its consent order by allowing white students from virtually all black Eudora, Arkansas to attend WCP schools. In 2003, the WCPSB and the DOJ agreed to another consent order, this time requiring stricter monitoring of inter- and intra-district transfers, student verifications, and an increased effort to recruit minority faculty and professional staff.

### Revisions to student assignment plan

Two years later, the DOJ proposed five revised student assignment plans to WCPSB for consideration in order to address pervasive desegregation within the district. Out of the eight WCP schools, three were virtually all white, and two were “racially identifiable”.<sup>5</sup> WCPSB rejected all of these plans, and as a result, the DOJ filed a motion for further relief to request the court’s intervention to direct the school board to accept one of the revised plans. The DOJ alleged that WCPSB was violating its consent order by maintaining segregated schools through inadequate student attendance zones, segregative transfer practices, adding portables to two of its all-white schools (to allow more white students to attend those all-white schools, rather than be assigned to schools with black students), and refusing to close two white schools with persistent low enrollment. In response, the WCPSB denied all of these allegations, and instead petitioned the court for unitary status in the area of student assignment plans.<sup>6</sup> Both parties filed cross-motions for summary judgment, and on February 14, 2007, Magistrate Judge Robert G. James found in favor of the government, ordering the parties go to trial on February 26, 2007 to determine a new student assignment plan. Immediately after the ruling, the parties entered into a settlement conference with Magistrate Judge Karen L. Hayes to try to reach a resolution in lieu of going to trial. All in the same day, the government and the board reached an agreement, WCPSB voted to adopt the agreement, and Judge James approved the consent agreement and issued a binding consent order.

The 2007 consent order incorporated several methods to achieve desegregation within the school district, including school closures, new attendance zones, and a further tightening of transfer request provisions. WCPSB agreed to close two of its schools: Fiske Elementary (an all-white school with low enrollment) and Pioneer Elementary (a “racially identifiable” school with a disparately large percentage of black students). The order also redrew the parish student assignment zones, replacing the seven “1969 Plan” zones with five zones. The new student assignment zones were predicted to reduce disparity in the percentage of white and black students among five of the district’s remaining six schools. However, under the new plan, Goodwill Elementary was to remain an all white school. The consent order also implemented new

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<sup>5</sup> Parish-wide, the racial composition of the district was 19% black. However, Epps High School and Pioneer elementary had black student populations far above the district average. Epps High School had a 48% black student population, and Pioneer Elementary had a 50% black student population.

<sup>6</sup> To gain full unitary status, WCPSB would have had to show it had meaningfully desegregated according to the remaining “Green Factors” (faculty and staff assignment, transportation, extracurricular activities, and facilities).



transfer request provisions including: an earlier deadline for all transfer requests; the rejection of any untimely and incomplete transfer request applications; the rejection of transfers to any schools that are operating at capacity; and granting the DOJ power to review and reject any transfer requests.

The consent order was to remain in effect for three school years (through the end of the 2009-2010 school year). At the end of the 2009-2010 school year, one or both parties may petition the court to grant unitary status in the area of student assignment to WCP School System. If the court finds that the WCPSB has “successfully, fully, and in good faith” implemented the 2007 Consent Order, then the court will grant the district unitary status in the area of student assignment. The Consent Order also contains a provision committing the WCPSB and the government to work toward resolving any disputes in the remaining areas of school desegregation (the “Green Factors”: faculty and staff assignment, transportation, extracurricular activities, and facilities). It is assumed, that, if in 2010, the government and the board have resolved these issues, then WCPSB will move for a declaration of unitary status in all areas, terminating judicial supervision of the school system.

#### Impact of the 2007 Consent Order

The board feared the new plan might result in community backlash and reduced enrollment numbers, and indeed, at the beginning of the 2007 school year, overall district population had decreased by 100 students. However, it is important to note that the same year, the district experienced a significant increase in kindergarten enrollment, necessitating the hiring of a new kindergarten teacher. In addition, it is unclear whether the overall enrollment downturn was a result of the new plan or lack of employment opportunities within the parish. Since the plan’s implementation, West Carroll Parish School System has continued its history of high academic success. In 2009, 86% of all 8<sup>th</sup> grade testers in the parish achieved the LEAP test promotional standard (“Approaching Basic” and above)—that is 17 percentage points above the statewide average.



### **Tangipahoa Parish School System** *Moore v. Tangipahoa Parish School Board*<sup>7</sup>

Tangipahoa Parish, one of the Florida parishes, is bordered by part of Lake Pontchartrain to the southeast, St. Tammany and Washington Parishes to the east, Livingston and St. Helena Parishes to the west, and the state of Mississippi to the north. In 2007, the parish population was 69% white and 29% black. The Tangipahoa School System currently serves approximately 19,451 students in forty schools.

Desegregation in Tangipahoa Parish has been a particularly long, complicated, and litigious process. Its history is characterized by numerous court orders, blatant violation of these court orders, and community concern for compliance. In March 2010, a new desegregation plan was ordered, in the hopes that in three years time, Tangipahoa School Board could move for a declaration of unitary status. However, this tenuous resolution came about only after forty-five years under court order, costly litigation, and a very public five year battle between the Tangipahoa Parish School Board (TPSB) and the NAACP. The desegregation history in Tangipahoa Parish is unique because a majority of the most important desegregation decisions, including the most recent court order, were achieved through judicial order after evidentiary hearings, rather than through settlement processes. Tangipahoa's desegregation litigation history is also noteworthy because of the fact that the U.S. Department of Justice did not intervene as a plaintiff in the litigation. Instead, the Tangipahoa Parish chapter of the NAACP, as an interested party, spearheaded a majority of the efforts to initiate and resolve the desegregation litigation.

#### Early desegregation orders: 1965-1974

In 1965, plaintiffs—black students and their parents—filed a lawsuit in the United States District Court for the Eastern District of Louisiana against the Tangipahoa Parish School Board for maintaining an unconstitutionally segregated “dual” school system. In June of 1965, the court found for the plaintiffs and issued a desegregation order for the school system. The desegregation order relied solely on general mandates of non-discrimination and a freedom-of-choice plan. In 1967, the court issued a revised, more comprehensive desegregation order that consolidated the school system and reinforced the previous freedom-of-choice provisions.

On May 27, 1968, the United States Supreme Court decided *Green v. County School Board of New Kent County*. In this decision, the Court found that New Kent County School Board's freedom-of-choice plan did not pass constitutional muster because it was not actually effecting meaningful desegregation within the school district. Accordingly, the Court held that any school district under a desegregation order found to be utilizing an ineffective freedom-of-choice plan would be required to formulate a new desegregation plan. The *Green* decision was also important because it enumerated the discrete areas of school operations that a court should consider when determining whether a school board is operating a “dual” or “unitary” school system. The “Green

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<sup>7</sup> 290 F. Supp. 96 (E.D. La. 1968), Docket No. 15556.



factors” are: student assignments, faculty and staff assignments, transportation, facilities, and extracurricular activities.

In light of this decision, the plaintiffs in the *Moore* case filed a motion to amend the Tangipahoa Parish desegregation order, alleging that the current freedom-of-choice plan had failed to desegregate the parish’s schools. Judge Alvin Rubin agreed with the plaintiffs, citing the fact that only 4.1% of the parish’s black students were attending school with white students. The remaining 95.9% of the parish’s black students were attending all-black schools. However, Judge Rubin declined to drastically amend the order because he feared major revisions would upset the beginning of the school year, which was only a couple of weeks away. Instead, the judge ordered the school district to ensure the parish’s teaching staff was minimally desegregated. The order mandated a minimum number of minority race teachers at each school.<sup>8</sup>

Thereafter, the court attempted to facilitate the creation of a *Green*-compatible plan for the 1969-1970 school year. Judge Rubin ordered the board to come up with a revised plan. The board defiantly responded to this request that they were unable to come up with a plan that was better than the current freedom-of-choice plan. The court then ordered the board to work with the Educational Resource Center on School Desegregation, a U.S. Department of Education program administered through Tulane University, so that the Center could propose a plan to the court. In the meantime, some white students and their parents, claiming that the board was not properly or effectively representing their interests in the case were allowed to join as defendant-intervenors in the case. Perhaps fearing the Center’s impending revised desegregation plan, both groups of defendants proposed desegregation plans to the court. The board proposed a plan that assigned 20% of the parish’s black students to white schools. The white student plaintiffs proposed a plan based largely on school improvements to all-black schools. These plans were rejected in a hearing on May 28, 1969 by the court. Judge Rubin adjourned with the intention of considering the Center’s plan, based largely on geographic attendance zones, in crafting a new court-ordered desegregation plan. However, shortly thereafter, the board submitted a new plan. Although he found the plan to be awkward, the judge, citing his apprehension to interfere with school operations, adopted the plan because he found it to be, at a minimum, in accordance with constitutional requirements. Judge Rubin issued a subsequent desegregation order on July 2, 1969, accordingly. The plan changed the composition of nearly every school in the parish by reducing the number of grades assigned to each school. For example, in Hammond, there was one school for each of the following grades: K-1<sup>st</sup> grade; 2<sup>nd</sup> grade; 3<sup>rd</sup> grade; 4<sup>th</sup> grade; 5<sup>th</sup> grade; 6<sup>th</sup>-7<sup>th</sup> grade; 8<sup>th</sup>-9<sup>th</sup> grade; and 10<sup>th</sup>-12<sup>th</sup> grade. Thus, the separate “black” and “white” schools were consolidated into various schools holding fewer grades. The new desegregation order also included general provisions prohibiting discrimination in transportation, facilities, and

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<sup>8</sup> The order mandated that the school board assign at least: 1 minority race teacher to a school with 1-4 teachers; 2 minority race teachers to a school with 5-14 teachers; and 3 minority race teachers to a school with 15 or more teachers.



extracurricular activities. Finally, the order mandated that the ratio of black to white teachers be approximately the same in each school throughout the parish.

Revisions made by consent agreement and judicial orders: 1975-1980's

Over the next thirty-five years, the board reconstituted the Parish's schools to reflect a more traditional allocation of grades (*i.e.*, K-4, 5-8, 9-12, etc.). The school board also changed the student attendance zones to ordinary neighborhood attendance zones. It is unclear whether the board made these revisions independently, or with court permission. However, after the 1969 consent order, the community was less concerned with student assignment than with discriminatory hiring practices perpetrated by the board.

In the months and years immediately following the 1969 consent order, several black Tangipahoa parish teachers, coaches, band directors, and principals joined as plaintiffs in the *Moore* case to sue the school board for discrimination by "engag[ing] in a policy and practice of coercing and intimidating Negro teachers in an effort to force Negro teachers to resign their positions."<sup>9</sup> The court ultimately ordered these former faculty members be reinstated and awarded back pay. As a more indirect result of this litigation, the plaintiffs and the school board entered a consent agreement which the judge adopted and ordered on June 19, 1975. The consent order mandated that the school board achieve a 40:60 ratio of black to white high school principals, agricultural teachers, band directors, vocal music teachers, coaches, athletic directors, and central office administrators. The board agreed to fill any new vacant positions in these areas with black, qualified applicants until the 40:60 ratio was achieved. Once the ratio was achieved, the school board would be permitted to use particular "objective criteria" to fill new vacancies without regard to race. In addition, the board agreed to hire an "Equal Opportunity Compliance Officer," to act as a liaison between the school board and the court, ensuring the board's compliance with all desegregation court orders.

However, in 1977, the court held the board in contempt of court for refusing to comply with the 1975 court order. Since the 1975 order, the school system had failed to reach the 40:60 ratio in the area of coaches, yet the board had filled three coaching vacancies with white applicants instead of black applicants. Thus, Judge Rubin reiterated the hiring provisions of the 1975 order<sup>10</sup>, and compelled the board to replace the white head football coach at Hammond High School with a black coach. In addition, the board had neglected to hire a compliance officer as directed by the court in 1975. The judge ordered the board to hire a black person to act as compliance officer before the beginning of the 1977-1978 school year. Judge Rubin also ordered additional requirements not present in the 1975 order. In the future, the board would be required to submit a planning study and analysis to the court for any capital improvements in excess of \$30,000 at least 90 days prior to a bond election or submission of bids on the proposed construction. The

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<sup>9</sup> *Moore v. Tangipahoa Parish School Bd.*, 594 F.2d 489, 491 (5th Cir. La. 1979).

<sup>10</sup> Judge Rubin also expanded the positions covered by the 40:60 ratio to include all principals (the 1975 order only specified high school principals).



court would then be responsible for reviewing the planning study and analysis to determine whether the proposed construction would be consistent with creating a unitary school system. The court would then grant or deny the board permission for construction, accordingly. And finally, as an extra measure to encourage the board to comply with the desegregation orders, and in an effort to bring the community together, the court authorized the board to create a bi-racial committee to promote the “amicable resolution of desegregation problems by the parties with a minimum of litigation.”<sup>11</sup> A later court order specified that the bi-racial committee would be created at the request of either the board or the NAACP, and the members of the board would consist of ten white members appointed by the school board, and ten black members appointed by the NAACP.

Soon after this order, the parties created a bi-racial committee. In the fall of 1977, Judge Rubin was promoted to serve on the Fifth Circuit Court of Appeals, and thus ended his involvement with the desegregation of Tangipahoa Parish School System. In addition, the bi-racial committee disbanded in the 1980’s because many of the committee members stopped attending meetings. It can be assumed that under the watch of the compliance officer and the bi-racial committee, the board initially complied with the 1977 court orders. However, at some point within the next twenty-eight years, perhaps as a result of the exit of Judge Rubin and the bi-racial committee, the board began largely ignoring the court orders regarding the mandated hiring ratio and court approval of capital improvements over \$30,000.

#### Recent litigation: 2005-2010

Until 2005, no significant action was taken in the court to enforce the court orders against the school board. However, in response to numerous complaints from the community about the lack of black teachers in the district—only 18% of the parish’s teachers were black—the NAACP attempted to reconstitute the bi-racial committee in late 2005. In June 2006, the school board officially recognized the bi-racial committee and appeared to be open to resolving hiring disputes with the committee. However, the NAACP pulled its members out of the bi-racial committee in August 2006, citing interference from school board members with the operation of the committee. Specifically, the NAACP was displeased with the school board’s refusal to appoint NAACP-approved former Tangipahoa Superintendent, Sam Pigno. Simultaneously, the NAACP threatened to sue the board and reopen the *Moore* desegregation case. However, the bi-racial committee continued, filling the spots formerly held by NAACP members with other black community members.

To reopen the dormant *Moore* case, the NAACP needed a recent blatant violation of the past desegregation orders. Such a situation presented itself in the hiring of a new head football coach for Amite High School. Since the court-ordered hiring of a black head football coach at Hammond High School in 1977, the school board had not hired another black head football coach at any of its

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<sup>11</sup> “1977 Order No. 18, Stipulation and Order,” August 9, 1977.



seven high schools. In the summer of 2006, Coach Donald Currier retired as head football coach of Amite High, and the hiring search began. Of the three applicants for the position, only one applicant was black—Alden Foster. Alden Foster, an alumnus of Amite High’s football team held a master’s degree in secondary education and had recently been named “Coach of the Year” in nearby St. Helena Parish. Doug Mistia, Amite High’s interim head football coach, and Mark Vining, long-time assistant football coach at Amite High, were the other two applicants in the running. All three applicants were evaluated according to the “objective criteria” enumerated in one of the desegregation orders from the 1970’s. Mark Vining received the highest score, and was hired by the board in January of 2007.

In response to community outcry and complaints from the NAACP, the Tangipahoa compliance officer, Arlene Guerin initiated an investigation to determine if Mark Vining’s hire was in compliance with the Parish’s school desegregation orders. Ms. Guerin found that the objective criteria should have only been used in hiring practices after the parish had reached the court-mandated 40:60 ratio of black to white coaches. Determining that the parish had never reached the 40:60 ratio among coaches, Ms. Guerin reported that the school board had prematurely and erroneously used the objective criteria. In April 2007, the school board, perhaps concerned about the legal fallout from the compliance officer’s findings, hired outside counsel to develop an independent determination of whether or not the board had violated the desegregation orders. In the meantime, the bi-racial committee attempted its own investigation, and requested confidential hiring documents, which the board refused to provide.

Shortly thereafter, the *Moore* plaintiffs, represented by NAACP attorneys, officially asked Judge Ivan Lemelle to reopen the case by filing a motion for status conference. The plaintiffs alleged that the Tangipahoa School Board had violated its desegregation orders in various ways: 1) employing racially discriminatory assignment of students and operating schools that maintained segregated student populations; 2) discriminating in the hiring of teachers, administrators, and coaches at “white” schools; 3) refusing to notify or seek approval from the court for school construction and capital improvements<sup>12</sup>; 4) maintaining a racially discriminatory school financing system through racially divided sub-districts<sup>13</sup>; and 5) hindering the compliance officer from effectively performing her court-ordered duties.

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<sup>12</sup> The School Board had recently publicized its intention to call a bond election in July to approve three taxes: 1) a parish-wide one cent sales tax to be used for various school construction and repair projects; 2) a millage to support the parish’s small magnet program; and 3) a millage to make improvements to Champ Cooper Elementary, a “white” school.

<sup>13</sup> Tangipahoa Parish School System was divided into sub-districts for the purpose of collecting and distributing property tax to support school construction projects and repairs. The NAACP alleged that these sub-districts were drawn along racial lines, and thus, poor, black sub-districts collected less property tax to support the neighborhood schools with a majority black student population. In contrast, the rich, white sub-districts collected a large amount of property tax to support various construction projects at the “white” neighborhood schools.



The board filed a response to the motion denying all allegations, and notifying the court of the board's upcoming bond elections. The court granted the plaintiff's request for status conference, and at the conference, Judge Lemelle requested that the board provide the requisite study and analysis for the proposed construction projects. The board filed a motion asking for official approval of the elections from the court, but did not include the requested study or analysis. Simultaneously, the plaintiffs filed motions for further relief, requesting the judge hold the board in contempt, enjoin all of the board's proposed bond elections and construction projects, and order the board to hire Alden Foster as head football coach of Amite High. The judge issued orders scheduling hearings on the motions to begin on June 15, 2007.

The plaintiffs and the board reached a settlement agreement concerning the bond elections and the proposed construction projects. However, they were unable to resolve the hiring issues. In July 2007, the hearings on the hiring of Alden Foster began. In the meantime, Mark Vining began his job as head football coach of Amite High.

Nearly a year later, in March 2008, Judge Lemelle reached a decision on the Alden Foster issue. The judge agreed with the previous findings of compliance officer, Arlene Guerin, that the parish had never reached the 40:60 white-to-black ratio in the hiring of black coaches. Thus, the school board was required to hire qualified black applicants until that ratio was achieved. Accordingly, Judge Lemelle ordered the school board to hire Alden Foster as head football coach for the 2008-2009 school year. In June 2008, the board voted to hire Alden Foster as head coach, but also requested permission from the court to promote current head coach, Mark Vining to the specially created position of parish-wide Athletics Director. The NAACP protested this move, claiming the board was required to advertise the job and consider qualified black applicants for the position. Judge Lemelle allowed the board to promote Vining, but with the caveat that Vining would not supervise coaches (such as Foster).

With the school bonding elections and hiring issues resolved, the court then directed the school board to create a revised desegregation plan to solve the remaining disputes. The NAACP and the board both submitted plans, and after three months of hearings on the proposed plans, both parties gave closing arguments on September 8, 2009. While withholding his ultimate decision on the desegregation plans, in January 2010, Judge Lemelle altered the 1975 order to require the school district to work toward the "goal" of achieving a 40:60 black-to-white ratio in the area of school administrators. Further, Judge Lemelle approved the school board's petition to renew the parish's magnet school tax for one year.

### New Desegregation Plan

Finally, on March 4, 2010, Judge Lemelle issued an order approving the board's desegregation plan with slight alterations. The judge's order comprised thirty-one pages, and included over 200 pages of attachments detailing the plan. The crux of the plan is dependent upon the passage of a \$200 million tax by voters, scheduled to be held sometime before the beginning of the 2011-2012



school year. The tax would go to support the construction of three new elementary schools. New student assignment zones, purposed to achieve an equitable racial distribution of students across schools, accompany the new elementary schools. The hiring of teachers at these three new schools will be strictly regulated. The percentage of minority teachers at these schools must match the percentage of minority teachers parish-wide. In addition, teachers hired at the new schools will not be permitted to transfer for three years (unless the transfer would achieve a more racially equitable percentage). The plan also calls for construction of a new O.W. Dillon Elementary School, a traditionally “black” school that had been lamented as being badly in need of repair. The school board must also ask parish voters to create a parish-wide general obligation district to eliminate the current (and inequitable) taxing sub-districts within the parish. The plan also expands the parish’s magnet program, requires the board to hire art and music teachers at all elementary schools, and sets up systems to track, by race, students in AP and college-prep courses and disciplinary actions taken against students. And significantly, the plan requires the board to hire a Chief Desegregation Plan Implementation Officer. This person will be in charge of implementing the desegregation plan and will work directly with the Superintendent and the court compliance officer. The plan also provides numerous provisions regarding student transfers, teacher recruitment, transportation, and facilities upgrades. The order specifies that, three complete school years after the opening of the three new elementary schools, the board may file a motion for unitary status in the areas of teacher and student assignment. Before that time, the board may move for unitary status in any of the other *Green* factor areas they believe they are in compliance with.

While the new desegregation plan is an obvious victory for the NAACP and concerned citizens in Tangipahoa Parish, community members are still skeptical of the plan’s likelihood of success. Because the board has a history of willfully acting in defiance of court orders, the board will have to work hard to rebuild confidence in the community. In addition, the plan is dependent upon the passage of a substantial tax measure by Tangipahoa residents. Were the residents to reject the tax proposal, the board would be summoned back to court to create a new plan, a process that would once again consume considerable time and expense. As an example of this expense, consider attorneys’ fees. The board is responsible for paying plaintiff’s attorneys’ fees for all meritorious claims. The board will be paying plaintiff’s lawyers \$874,000 for the past three years of litigation. This fee is in addition to any fees the board will have to pay its own lawyers.

Although it took years of bitter struggle and litigation to accomplish, Tangipahoa School Board may finally be close to resolving its forty-five year-old desegregation litigation. However, complete resolution of the lawsuit will depend upon the good-faith efforts of the board to comply with the lengthy and comprehensive desegregation plan. No doubt the NAACP, and the local press will continue to monitor the situation in Tangipahoa Parish.



### **Tangipahoa Desegregation Timeline**

- 1965 • Plaintiffs file the desegregation lawsuit, *Moore v. Tangipahoa Parish School Board* in the United States District Court for the Eastern District of Louisiana
  - The court issues a desegregation order, based on a “freedom of choice” desegregation plan
- 1968 • *Moore* plaintiffs file a motion to amend the plan in light of the *Green* decision
  - Judge Alvin Rubin orders the board to create a revised desegregation plan for the 1969-1970 school year
  - The board refuses to formulate a new plan; Judge Rubin orders the board to work with the Educational Resource Center to develop a plan
- 1969 • Judge Rubin considers and rejects plans submitted by the Educational Resource Center, the school board, and white parent and student intervenors
  - Judge Rubin accepts a subsequent revised plan from the board; the plan was based on new attendance zones and reassignment of grades so that each school held fewer grades
  - Plaintiff black teachers join the desegregation lawsuit, alleging the school district coerced and intimidated them in an effort to force them to resign their positions
- 1975 • Plaintiffs and the school board create a consent agreement; the agreement laid out racial quotas in hiring practices, and created a position for an “Equal Opportunity Compliance Officer”
- 1977 • Judge Rubin holds the TPSB in contempt for not complying with the provisions of the 1975 consent order; Judge Rubin issues a new court order that requires TPSB to hire a black football coach, among other things
- 2005 • The NAACP receives complaints from the community about the low percentage of black teachers in the district
  - Donald Currier, the white head football coach at Amite High, retires; the three final applicants include two white applicants and one black applicant, all highly qualified for the position
- 2007 • TPSB hire longtime white assistant football coach at Amite High, Mark Vining, as the new head football coach of Amite High School
  - TPSB’s compliance officer investigates and determines that TPSB violated a 1975 court order by hiring Mark Vining over a qualified black applicant, Alden Foster
  - The plaintiffs in the *Moore* case re-open the desegregation litigation; Judge Lemelle schedules hearings to address TPSB’s alleged violations
- 2008 • Judge Lemelle finds that TPSB has violated its desegregation orders by passing over applicant Alden Foster for hiring; Judge Lemelle orders TPSB to hire Alden Foster as the new head football coach at Amite High School
- 2009 • Hearings begin to resolve the remaining desegregation violations alleged by the plaintiffs; the NAACP and the TPSB both submit new desegregation plans to Judge Lemelle for consideration
- 2010 • Judge Lemelle approves a comprehensive desegregation plan submitted by TPSB