

**Key Points**  
**Unitary Status and the Pitt County Schools**  
**Presented by Ken Soo, Tharrington Smith, LLP**

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- At one time by law, black and white students attended separate schools. Following the Brown vs. Board of Education decision in 1954 (which found that state laws establishing separate schools for black and white students and denying black children equal educational opportunities were unconstitutional), school districts began making changes, but segregation continued in many respects across the country.
- Law suits filed in the 1960's against Pitt County Schools and Greenville City Schools challenged racial discrimination including student assignment policies that led to racially separate schools.
- In the 1970's, Judge Larkins approved desegregation plans for both school systems (the two plans were different in approach) and retained Court jurisdiction. For almost 40 years, the cases remained dormant. Pitt County Schools developed and maintained policies that set racial diversity targets.
- In 2006, the Greenville Parents Association complained to the federal government that the Pitt County Board violated the Constitution by considering race when it redistricted elementary schools in Greenville. The Board argued that consideration of race was justified to comply with the old Court orders. To resolve the complaint, the Board asked the U.S. District Court to rule on the question.
- District Judge Malcolm J. Howard ordered all parties to try to settle their differences. After a mediated agreement, Judge Howard found that the Board had complied with the law. Judge Howard approved the elementary assignment plan and approved the Board's revised assignment policy, which made student achievement a key goal in student assignment and put less emphasis on race.
- The Court additionally ordered the parties to work toward attaining unitary status so the Court could restore to the School Board full responsibility for operating its schools.
- A report must be submitted to the Court by December 31, 2012, detailing the Board's efforts and progress toward unitary status.
- Unitary status is the opposite of segregated status. A school district is unitary when it has eliminated the effects of past segregation to the extent practicable. Once so declared, the court system no longer supervises the school system's student assignment and other decisions.
- The Pitt County Board of Education is elected to direct and supervise the public schools. The Board will work with parties in this litigation, but has a broader responsibility to the entire community.
- Recognizing that a school district cannot remedy all past wrongs with Unitary Status, what have Courts considered in deciding whether school districts are Unitary?
- Diversity ratio of individual schools compared to school system's overall ratio-
  - If Individual schools are well outside the overall ratio, are the differences because of past history of segregation or because of the pattern of housing development, geography or other factors?
  - Do black students have the same educational opportunities as white students?
  - Graduation rates and other measures of success -
  - Student suspension rates for students from different racial groups -
  - Qualifications of faculty and staff in assignments compared school to school -
  - Are black or white administrators and teachers overrepresented in schools that are racially unbalanced?

- If schools are racially unbalanced, how do the school buildings compare in terms of classroom size, age of the building, air conditioning, computer access and other factors? Have new schools been built in areas that improve diversity?
- Do students who attend predominately black schools have significantly longer bus rides than those who attend predominately white schools? If so, is there a race-neutral explanation?
- Are extracurricular activities like sports and clubs available to all students regardless of race? How do extracurricular offerings at predominately black and predominately white schools compare?

→ The two previous Boards and the current Pitt County Board complied with court orders to desegregate. For many years, the student assignment policy emphasized racial diversity as the key factor.

→ Current assignment and instructional policies emphasize support for all students, with an emphasis on students who are at risk. Policy continues to recognize race as a factor in student assignment.

→ School system is looking at progress in areas discussed above. School administration will recommend action to address problems in any of these areas.

→ Goal of improving education for all students will be central to Unitary Status.

→ Board will work with other parties in the court case, but Board has obligation to entire community to collect input from individuals and other community groups. Such groups could include PTAs, school improvement teams, teacher organizations and advocacy groups.

→ Changes proposed to achieve Unitary Status will be discussed and acted upon by the Board in a public setting. Advice from the attorney regarding litigation may be sought in a private setting.

→ Summary comments/responses (paraphrased) offered during Questions/Answers:

- The recent Supreme Court decision applied to cases that involved school districts not still under desegregation orders by the Court. The Pitt County Board of Education is in a different situation in that it remains under a desegregation order and in that Judge Howard has instructed this Board to look at Unitary Status. It was significant that Judge Howard gave approval to the Board's revised student assignment policy, which continues to include race as an important part, but not as the primary part of the process.
- Race information was included in the information sent to ORED and ORED is including race in the data set. ORED will not use race to generate proposals, but because of the Court order, the Board must consider race and will need to know the racial impact of the maps created on individual schools.
- Judge Howard instructed that the Board will work with the other parties involved in the case. There were no further instructions in this regard. The Board already has the responsibility to work with the entire community and it will do so, including the parties involved either through their counsel or by them sitting directly with the Board.
- In regard to transportation, the court would want to look at the length of bus rides for children of different races to determine if any differentiation was related to race or race-neutral issues such as geography and housing patterns and if in the Board's efforts to provide diverse schools, black students were bused longer distances than white students.

- In 2012 when the report is presented, if all sides agree on Unitary Status then a decision to move forward can be made quickly. If all sides do not agree, then further negotiations may take place or the resolution taken to the Judge for him to decide.
- Currently, the staff is involved in a rigorous data collection process. The School Attorney has put together a collection of historical cases on Unitary Status factors, which provides measures to use to look at the district. There is no exact prescription. The district must review all areas identified and at the layers of information specific to the district and then beyond the layers at the district level to the school level. There is a lot of work to do and a lot of information to collect. An effort will be made to look at the two districts at the time the court orders were issued and also at the past ten years.
- What may be more important than getting a report to the Court quickly, will be the opportunity to use this time to implement strategies to address any deficiencies identified in this process.
- District needs to build effort from grass roots up; determine what the issues are and what needs to be done to address those issues and then implement identified strategies. Input will be obtained from identified parties and the community. Importantly, the district will want to be sure there is ample research to support actions both in terms of decisions made for student assignment using proximity and achievement and in discussions regarding Unitary Status. It is going to take some time to do this appropriately and some intermediate deadlines will be set for sharing information with the Board.
- As the district becomes engaged in the student reassignment process and as the Board looks at attendance areas using neighborhoods, achievement and other factors, it will be important to look at the overall impact and in doing that, there are going to be many opportunities to discuss how the two processes relate. Decisions made in regard to student assignment will present a first step opportunity to say how decisions will be made and considered. We will need to ensure that we do not make decisions regarding student assignment that become impediments to Unitary Status.
- The “Key” is making education better for every student.
- The Board of Education is the elected entity and will be the decision maker. The process can be as wide open for input as the Board wants it to be. Obtaining information and input from other parties will be broader than student assignment alone. The Board has already made the invitation for the other interested parties in the case to join in the discussion on student assignment as indicated in the timeline.
- It will be important for the community to understand that the administration and the Board are preparing to move ahead in this process.
- There have been continued questions posed to the district as to whether or not race can be used. It needs to be emphasized that the school system is constantly required to report information required by OCR and other entities that is based on race. The same is true with student assignment. The district is not building assignment plans using race, but race is included in the data in order for the district to be able to evaluate the impact. The district remains under Court order and therefore has a responsibility to be able to track and monitor information by race.

For complete information on all comments, questions, and answers, please refer to the minutes of the May 17, 2010 meeting.