

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

LITTLE ROCK SCHOOL DISTRICT

PLAINTIFF

V.

NO. 4:82CV00866DPM

**PULASKI COUNTY SPECIAL SCHOOL
DISTRICT NO. 1, ET AL.**

DEFENDANTS

SPECIAL LONGITUDINAL REPORT CONCERNING ONE-RACE CLASSROOMS

The Pulaski County Special School District (PCSSD) for its Special Report states:

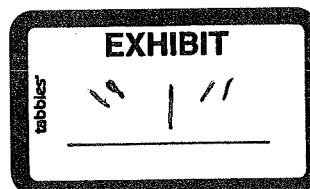
A BRIEF HISTORICAL SNAPSHOT

A report dated October 3, 2001, informs us that for the 1999-2000 school year, the PCSSD reported 54 secondary one-race classrooms. For the first semester of 2000-2001 that number had risen to 76. Since that decade, the outcomes in PCSSD have trended downward to the point that during the first semester of this school year, only six one race-classrooms existed in the PCSSD during a semester when more than 3000 classroom settings were documented at the secondary level.

Further, as we denote throughout this special report, and a circumstance which has existed for the duration of this case, year in and year out most of the one-race elementary classrooms occur at Bayou Meto Elementary School, an isolated elementary school located in the extreme northern portion of the PCSSD bordering the Vilonia School District extending into Lonoke County. Excluding Bayou Meto, the second semester elementary report will reflect only one one-race class, that at Harris Elementary which is 88% African American.

It is clear that Plan 2000 contemplates that one-race classrooms will occur as explained by the literal language quoted hereafter. Most of these occur in two categories:

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Special Education classes, which are often very small, and Advanced Placement and Pre Advanced Placement which are rigorous courses that are also often small and are not always popular with students regardless of race because of their difficulty. The latter are the subject of Section D of Plan 2000 where the emphasis and admonitions to deal with these circumstances are more fully detailed. Judge Miller made separate findings regarding his dissatisfaction with the level of black participation in Secondary Gifted and Talented, Pre AP and AP programs, which he described and found to be “disproportionately” white. Order @ 52.

He noted that Plan 2000 itself included standards to “promote racial diversity in these programs.” Order at 49. As he stated:

“It is without question that Pulaski County was required to implement the standards in good faith and work toward the educational goal of increasing the number and proportion of black students participating in AP, GT, and Honors Programs at the secondary level.” Order at 49-50.

Accordingly, it is respectfully suggested that the issue of participation of black students in these Gifted and Talented, Pre AP and AP courses which are measured below, is more appropriately done when the court reexamines the District’s status in implementing Section D of the Plan as opposed to part of the Student Assignment Section which this special report addresses. Otherwise, the District would be currently penalized for perceived failures in a separate section of the Plan that should not, in fairness, be “counted twice” if Section D issues contribute to or result in one-race classes for this separate discreet section of Part C of Plan 2000.

The point is, as the court will see, the number of one-race classes for the previous four years drops dramatically if the GT, Pre AP and AP courses, and their participation levels, are reserved for analysis and evaluation under Section D rather than Section C.

WHAT PLAN 2000 REQUIRES

Plan 2000 requires that:

The language quoted immediately below, therefore, simply deals with the reporting and procedural requirements of the PCSSD when a one-race classroom is detected.

The PCSSD shall submit, not later than October 15 in each school year, a report concerning one-race classes. The report shall set forth for each such class: (i) the school, (ii) the class including the grade level, (iii) the racial make-up of the class, (iv) a description of steps taken to eliminate the particular one-race class and the reason(s) why this proved to be infeasible. The PCSSD shall submit not later than March 1 of each school year a similar, supplemental report concerning any one-race classes in courses commencing in the second semester of the school year.

WHAT JUDGE MILLER FOUND

At Pages 48-49 of his decision, Judge Miller found that:

The one-race class reports presented by Pulaski County during the hearing are inadequate. See Pulaski County Exs. 5A-J. Although many reports were submitted, they fail to meet the requirements of the desegregation plan. First, it should be noted that a number of reports are missing. Second, the majority of reports fail to include a description of steps taken to eliminate one-race classes or the reasons it may be infeasible to eliminate such.

Due to the deficiencies of the one-race class reports, a finding of substantial compliance in good faith under this subsection is not possible. Pulaski County is directed to maintain one-race class reports that meet all of the requirements of Plan 2000 and present them to the ODM. If such reports are maintained for forty-eight months, this finding will be reconsidered.

THE PURPOSE OF THIS REPORT

The PCSSD believes that the deficiencies noted by Judge Miller insofar as they apply to the last of the reports that were submitted to him for consideration, can be brought into compliance with Plan 2000 requirements and the court's expectations. Thus, the PCSSD has taken the reports generated since the unitary hearings concluded and has reformatted those and the reports for 2009 to demonstrate that it is unnecessary to produce four years worth of "new"

data. Reformatting the existing reports, without changing the facts and the data, except to correct errors, should suffice.

The PCSSD has also taken this opportunity to jettison the irrelevant reporting concerning “racial isolation” and “gender isolation” that was apparently a holdover from earlier reporting formats, but which is specifically not required by Plan 2000.

CURRENT STATISTICAL IMPACTS

As is detailed below, during the first semester at the secondary level eleven classrooms were taught as one-race classrooms. Four of these were black classrooms and seven were non black classrooms. During the first semester, a total of 3,062 secondary classrooms were present and operating in the District. If one divides 3,062 into 11 the resulting outcome is 0.003592 or 36 one-hundredths of a percent. If one isolates the four black classrooms for the calculation, the result is 0.0013063 or 13 one-hundredths of a percent.

The second semester secondary report will be filed soon and will reveal a further decline to only three one-race classrooms for the second semester of the 2012-2013 school year.

It is respectfully submitted that these impacts are so de minimis as to be regarded as inconsequential.

ELEMENTARY OUTCOMES SINCE 2009

First, it is important to again note that every semester most of the one-race classrooms occurred and still occur at Bayou Meto Elementary School. Bayou Meto has been classified as a racially isolated school by the United States Court of Appeals for the Eighth Circuit since the beginning of this case. It is in a sparsely populated area covering much of Northern Pulaski County that borders upon the nearly all white Vilonia School District. It is exempt from the

student assignment plan requirements of the PCSSD. Its population for the last four school years has arrayed as follows:

First Semester	Second Semester
<u>2008-2009</u>	<u>2008-2009</u>
11 black	14 black
372 non-black	370 non-black
<u>2009-2010</u>	<u>2009-2010</u>
24 black	19 black
339 non-black	373 non-black
<u>2010-2011</u>	<u>2010-2011</u>
24 black	24 black
339 non-black	339 non-black
<u>2011-2012</u>	<u>2011-2012</u>
16 black	16 black
300 non-black	318 non-black
2012-2013	2012-2013
17 black	20 black
305 non-black	302 non-black

SEPTEMBER 10, 2008 ELEMENTARY REPORT

Eleven one-race classrooms were observed in three of the district's elementary schools. Nine of the classes were at Bayou Meto. Bayou Meto, because of its remote location and scattered population, has been designated as a racially isolated school since this case began. Because PCSSD continues to operate under basically the same enrollment zones that have

prevailed since the late 1980s and because there is no practicable way to modify the Bayou Meto zone, the racial isolation phenomena results in one-race classrooms year in and year out.

However, since Bayou Meto is exempt from the racial balance guidelines of the PCSSD and has been throughout this case, it is respectfully submitted that Plan 2000 should be interpreted to exempt it from the one-race reporting requirements as well. Even if not exempt, Plan 2000, as quoted above, simply requires PCSSD to explain why the one-race classes exist and why any steps considered to change these circumstances proved not to be feasible.

Lawson Elementary during the first semester of 2008 had five black students in kindergarten and had three kindergarten classes. These black students were placed in two of the three classes leaving one one-race class. Logically, had the decision been made to disburse all five black children across the three classrooms, there would have been no one-race classrooms.

For this semester, Scott Elementary had three black students in third grade. They were all placed in one classroom to avoid racial isolation leaving a one-race third grade class. Had they been distributed into both classes, there would have been no one-race classes.

Nothing in Plan 2000 prohibits this practice. Neither does anything in Plan 2000 require it.

SEPTEMBER 28, 2009 ELEMENTARY REPORT

The first semester report for 2009 reflects eight elementary one-race classrooms. Five of those were at Bayou Meto.

In a policy decision repeated each year, the principal at Bayou Meto has elected to place all available black students in one kindergarten class, one first grade class, etc. The result of this policy creates one-race classrooms. The policy is calculated to ameliorate racial isolation for these black students. However, the obvious "solution" to this dilemma was to spread the

available black students across each class resulting in most classes having but one black child enrolled. Although feasible to do so, the PCSSD elected policy over avoiding one-race classes.

Because PCSSD continues to operate under the zoning and attendance policies which date back to nearly the beginning of this case, and because the Bayou Meto area is so sparsely populated, there are no other practicable solutions or approaches to take for increasing black enrollment at Bayou Meto given its longstanding demographics.

For this particular semester, Arnold Drive had four black students in kindergarten. These were placed in two of the three kindergarten classes to reduce racial isolation for them.

Again, the principal elected policy over avoiding one-race classrooms. Spreading the four students over the three classes was feasible and would have avoided any one-race classes, but policy considerations prevailed.

College Station had two white males in the third grade and two white males in the fourth grade. Again, for reasons of policy, two were placed in one third grade classroom and two in one fourth grade classroom. As College Station had only two third-grade classes and two fourth-grade classes, it could have avoided this outcome by electing to place these children one to a class. Although feasible, for policy reasons, it chose not to. [These were white students in the regular program, not the specialty program for which recruiting is conducted].

JANUARY 28, 2009 ELEMENTARY REPORT

For the second semester, eight one-race classrooms remained at Bayou Meto for the same reasons as explained for the first semester. By the second semester at Scott, its enrollment included only three black students in the second grade and again, as a matter of policy, all three were placed in one classroom to avoid racial isolation. Again, had they been split into the two available second grade classrooms, the one-race class would not have occurred.

JANUARY 26, 2010 ELEMENTARY REPORT

There were seven one-race classrooms in the second semester for 2009-2010. Again, five of those classes were found at Bayou Meto.

Arnold Drive Elementary had three black males enrolled in kindergarten. By policy, they were placed into one classroom to avoid racial isolation in the other kindergarten classrooms. Again, had the decision been made to distribute these black children across the three kindergarten classes, there would have been no one-race class and it was feasible to do this.

College Station Elementary enrolled only two white males in the third grade. They were placed in the same classroom to avoid racial isolation. This left the other third grade class all one-race. This could have been avoided by putting one of each child in each class.

OCTOBER 1, 2010 ELEMENTARY REPORT

Again, seven one-race classrooms were observed and the same schools were once again involved.

Arnold Drive Elementary had three black students in first grade. They were once again placed into one classroom leaving the other first grade class all non black.

Once again, College Station had three white students in kindergarten. They were all placed in one room to avoid racial isolation leaving the other kindergarten classroom all black.

While it was feasible to distribute the black and white students at Arnold Drive and College Station differently to avoid one-race classrooms, a policy decision was made to avoid racial isolation instead.

Once again, Bayou Meto had five one-race classrooms for the reasons previously explained.

JANUARY 24, 2011 ELEMENTARY REPORT

Once again, seven one-race classrooms were observed. Once more, five were at Bayou Meto and once again black students were placed in one classroom to avoid racial isolation.

Yet again, Arnold Drive and College Station were the other two schools noted. Arnold Drive initially had three black students in first grade and they were all placed in one room. This left the other classroom all non black. Had these students been placed in both first grade classrooms, there would have been no one-race class. Another black student enrolled later in the semester.

College Station had two non-black students in kindergarten; they were placed in the same room. This left the other room all black. Had these children been split, no one-race class would result, but policy prevailed over racial isolation.

SEPTEMBER 30, 2011 ELEMENTARY REPORT

Eight one-race classrooms were observed. Six of these were at Bayou Meto with the same phenomena applying as in past years. College Station had a split class covering third and fourth grade. Apparently, this multi-age class is an academic and social intervention and students must meet certain criteria for placement. Only nine students were enrolled in the class and they were all black. All of the non-black students of this age were in the specialty program and not eligible to participate in the multi-age class. Thus, given the enrollment and the attendance area, there was no practicable way to alter the outcomes in this special class.

A similar situation existed at Oak Grove Elementary School which hosted the STAR class during the first semester. This is a class for students with disabilities and behavioral issues, and the total enrollment was two students both of whom were non-black. Students from other

area elementary schools were referred to Oak Grove for placement in STAR and these were the only two students referred. Thus, there was no practicable way to modify this outcome.

JANUARY 23, 2012 ELEMENTARY REPORT

For this semester, the only one-race classes were located at Bayou Meto. While fifth-grade was mistakenly reported as one-race, it was in fact not.

SEPTEMBER 21, 2012 ELEMENTARY REPORT

Bayou Meto had three one-race classes.

The only other one-race class was at Harris. At the beginning of the semester, this multi-age class was not one-race. However, during the semester, a family moved a child to another school which converted this class into a one-race class. By this point in the semester, it was neither equitable nor feasible to move students to avoid this mid-semester outcome.

SECONDARY ONE-RACE CLASSES

REPORT DATED OCTOBER 1, 2008

At the secondary level, there was a single one-race class at Oak Grove High School, two at North Pulaski High School, one at Fuller Middle School, two at Jacksonville High School and two at Jacksonville Middle School. Five of the eight classes were in the Special Education area including Special Education Math and Directed Studies at Jacksonville, Directed Studies at Jacksonville Middle School and Learning Lab at Oak Grove and Fuller Middle School. Placement in these type courses is driven by the student's Individual Education Plan.

AP Art, Stage Craft II and III and Band (percussion) at Jacksonville were the other one-race classes. The latter three courses are electives, are small and simply did not generate sufficient interest to overcome their one-race status. Each of these electives were populated by non-black students. The other one-race courses were all black.

JANUARY 28, 2009 SECONDARY REPORT

For the second semester, the district reported nine one-race classes. These included Special Education at North Pulaski High School, Learning Lab 6-8 at Fuller Middle School, Special Education-Math, Directed Studies and Special Ed Science at Jacksonville High School. All of these courses are Special Education courses with enrollment driven by the student's Individual Education Plan. Most of these courses are also quite small.

The other one-race courses included AP Art at North Pulaski High School and Pre AP Algebra II at Robinson High School. Again, these are accelerated courses which are not attractive to many students.

The other one-race course was originally reported as Drawing 2 & 3 at North Pulaski High School. However, this class actually consisted of Drawing 1, 2, & 3, and was resultantly not one-race. Thus, there were eight one-race classes rather than the nine initially reported.

SEPTEMBER 29, 2009 SECONDARY REPORT

Only two one-race classes were reported. Special Education Resource Language at Mills University Studies was originally reported as one race, but in fact was not. Learning Lab at Sylvan Hills Middle School hosted seven non-black students. Again, these courses are based on the student's Individual Education Plan, are low in numbers and cannot be readily or feasibly adjusted. The other one-race class was Physics at Jacksonville High School, an elective which attracted only nine students. The Physics class at Jacksonville High School was all non-black with nine students.

JANUARY 26, 2010 SECONDARY REPORT

Special Education-Inclusion and Special Education were Special Education courses reporting one-race classes. Again, these are subject to a student's Individual Instruction Plan and

cannot be readily adjusted. Also one-race were the English Language Learners classes at Fuller Middle and Oak Grove High. These are for students who have difficulty with English and are all generally Hispanic and there is no practical or feasible way or reason to adjust these outcomes. Choir and Athletics are electives at Fuller Middle and were originally reported as one-race, but were not. Key Applications, an elective, had five black students. Geometry at Northwood Middle hosted nine non-black students. The one-race class at Jacksonville High was Physics which attracts very few students of either race and, in this instance, had one non-black student. A Social Studies class at Robinson High was one-race because only three black students constituted the entire class.

OCTOBER 1, 2010 SECONDARY REPORT

As of this date, only four one-race classrooms in the secondary schools were noted during first semester. Of those, one was Learning Lab at Robinson Middle and the other was Directed Studies at Sylvan Hills Middle. The Learning Lab is based on the student's Individual Education Plan, is not open to all students and in that semester enrolled only four non black males. The Directed Studies class at Sylvan Hills Middle was likewise open only to students with an Individual Education Plan, and enrolled four black students.

At Oak Grove High, the special English Fundamentals class was populated by ten students placed in the class based on their Individual Education Plans. It was originally reported as one race, but was not. The other one- race class was for English Language Learners at Fuller Middle and Oak Grove High School which again is a class open only to students not proficient in English. The Oak Grove High School was populated by four Hispanic students.

JANUARY 24, 2011 SECONDARY REPORT

Seven one-race classrooms existed during the second semester of that school year. Fuller Middle, Northwood Middle and Oak Grove High School all had English Language Learners classes open only to English deficient students and were all populated by Hispanic students with four enrolled at Oak Grove High School. Jacksonville Middle had a one-race Resource Classroom with six white students and Sylvan Hills Middle had a one-race Directed Studies course with four black students. Oak Grove High School retained the English Fundamentals Special Education class; it was originally reported as one-race, but was not. Resource Math was one-race at Robinson High with but three black students. Students are placed in these courses based on their Individual Education Plans. Keyboarding at Robinson Middle with four black students, Pre-AP English and English III at Robinson High were erroneously reported as one-race classes. The Keyboarding class is small and schedule changes at semester converted it to a one-race class; it was not a one-race class during first semester and as a two semester course, students could not be funneled into the class at semester.

OCTOBER 10, 2011 SECONDARY REPORT

Six one-race classes were counted for this semester. These included Special Education Math at Sylvan Hills Middle, Resource Language at Maumelle Middle and Directed Studies at Jacksonville Middle, all of which are Special Education courses with admission based on the student's Individual Education Plan. The Special Education Math class at Sylvan Hills had but one student who was non black. (Directed Studies at Sylvan Hills High was originally but incorrectly reported as a one- race class).

AP Calculus at Mills University Studies is the highest level Calculus class and efforts to recruit non-black students were unsuccessful. Six non-black students composed the class. The

AP Physics course at North Pulaski High was a new offering and very few students elected to take the course in its first year. The AP European History class at Maumelle initially had no black students. In an effort to remedy the situation, registration was extended and students were allowed to change their schedules if they developed an interest in taking the class, but none did. When the PAP Language Arts class at Robinson Middle initially enrolled no black students, schedules were examined, but any changes would have caused the same problems for another class.

FEBRUARY 1, 2012 SECONDARY REPORT

During this semester, there were only four one-race classrooms including one at the Learning Academy which is an alternative school for students having difficulty in their regular school. The Special Education Math course at Sylvan Hills Middle is based on the students IEP and only one student was enrolled in that class. This was a non-black student. The scheduling was a compromise to allow the student to continue to participate in Band. The students at the Learning Academy in Credit Recovery are again determined by referrals from high schools. This class consisted of one black student. There are small numbers of black students in seventh-grade PAP Language Arts at Robinson Middle and efforts to move some of these students into other classes and add minority students to the class were simply unsuccessful with schedules being what they were.

There was one non-black student in the Resource Language Arts class at Jacksonville and scheduling would not permit the inclusion of any others.

OCTOBER 2, 2012 SECONDARY REPORT

There were six one-race classrooms during this semester.

The Math6 PAP class at Northwood Middle School was originally reported one-race because of scheduling conflicts that could not be avoided then, but two black students were later added and Journalism 2 & 4 have prerequisites that black students had not taken as electives and were, therefore, not eligible for inclusion in this class of four non black students. The English Language Learners I & II class at Maumelle High School again is limited to students not proficient in English and all of these students were Hispanic. Marketing and JAG are electives at Robinson High School and are based on academic need, employment and student transportation. Marketing was enrolled with eleven non black students and two black students enrolled in JAG. No black students enrolled in the small AP Biology, Physics or AP Chemistry at North Pulaski High, although one black student did enroll in Physics, but later dropped the course.

Special Education English and Special Education Math at the Learning Academy each enrolled one non black and one black student respectively and Resource Math at Jacksonville Middle enrolled eight black students, while Directed Studies enrolled six black students.

JANUARY 29, 2013 SECONDARY REPORT

Of the thirteen secondary schools in Pulaski County Special School District, one of them has one-race classrooms.

There are no minority students in the AP Biology or AP Chemistry at North Pulaski High. Teachers and counselors have recruited African American and other minority students for Advanced Placement and Pre-Advanced Placement courses through the school's Embodi initiative. This initiative is designed to provide additional assistance and information from school counselors to African American and other minority students and parents about Advanced Placement, Pre-Advanced Placement, and AAIMES courses to recruit those students into those

courses. African American and other minority students are currently enrolled in accelerated courses that are feeders to Pre-AP and AP courses. Recruitment efforts also focus on retaining those students for matriculation in Pre-AP and AP courses. One minority student enrolled in Physics at the beginning of the 2012-2013 school year but dropped the class despite school efforts during parent/teacher conferences to persuade the student to remain in the program. The student did not want to take a fourth science.

CONCLUSIONS

The numbers of classes impacted is statistically diminimis. This is especially so when current outcomes are compared to those immediately after Plan 2000 was approved. The impacts, insignificant as they may be, apply to both black and other students and there is no indication from the data set forth herein that either category is singled out or improperly affected by the results reported.

Particularly when the data is corrected to eliminate prior mistakes, when the phenomenon of Bayou Meto is explained, when the impact of Special Ed classes and their sizes are examined and when the Advanced Placement type courses are analyzed under Section D as opposed to Section C, it should be apparent that the PCSSD has in fact complied in good faith with this provision and should be declared unitary as regards one-race classes and the entirety of Section C Assignment of Students.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which shall send notification of such filing to the following:

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