UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

LEON W. BRADLEY, JR., et al.,

Plaintiffs,

vs. CASE NO. 8:64-CV-98-T-23B

THE PINELLAS COUNTY SCHOOL BOARD, et al.,

Defendants.
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AMENDED* FINAL ORDER WITHDRAWING FEDERAL SUPERVISION AND GRANTING UNITARY STATUS TO THE PUBLIC SCHOOLS OF PINELLAS COUNTY, FLORIDA

This class action is before the Court for consideration of a final settlement agreement, which was proffered by the parties for Court confirmation consequent upon extended mediation and negotiation, several hearings, and preliminary approvals by the parties and the Court.

Findings of Fact

This case was filed in 1964 to desegregate the public schools of Pinellas County. The early history of the case is briefly described in *Bradley v. Board of Public Instruction*, 431 F.2d 1377 (5th Cir. 1970), *cert. denied*, 402 U.S. 943 (1971).

* This order amends the Court's Final Order of August 10, 2000, only to correct an inadvertent omission on page 35.

On May 18, 1971, plaintiffs filed a motion for further relief in light of *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971).[1] This resulted ultimately in the entry of an order by this Court on July 23, 1971, approving a revised student assignment plan based on a combination of (1) contiguous school attendance zones and non-contiguous "satellite" zones and (2) pupil transportation in instances in which contiguous zones produced enrollments substantially disproportionate to the overall student population in the school system.[2]

Upon a motion by the School Board, on July 30, 1971, this Court amended its judgment to give the school district authority to implement "elastic" zone lines for all schools so that the ratio of black students in any school would not exceed thirty percent[3] or fall below the lowest ratio in each grade level, that is, 3.1 percent for the senior high schools, 5.6 percent for the junior high schools, and 9.1 percent for the elementary schools.[4]

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[1] This action only recently concluded. *Capacchione v. Charlotte-Mecklenburg Schools*, 57 F. Supp. 2d 228 (W.D.N.C. 1999).

[2] Pairing and clustering of contiguous schools with grade restructuring had been ordered by the Fifth Circuit panel in *Bradley v. Board of Public Instruction*, 431 F.2d 1377 (5th Cir. 1970), *cert. denied*, 402 U.S. 943 (1971). However, a plan limited to those techniques did not eliminate all-black and all-white schools from the system. See *id.*, 431 F.2d at 1384-85. The 1971 plan restored a regular grade structure to all schools by eliminating pairing and clustering, while also desegregating all schools.

[3] In the preceding (1969-70) school year, the system's total student enrollment was approximately 16% black. *Bradley*, 431 F.2d at 1378.

[4] In other words, the school district was relieved of the obligation to obtain prior court approval before implementing any modifications in attendance zone lines for its schools, so long as the resulting school enrollments were within the ranges specified in the July 30, 1971 order.

In subsequent years, the 1971 orders were modified on a number of occasions pursuant to a stipulation between the plaintiffs and the School Board, in order to provide greater flexibility to the school system in assigning students and maintaining desegregation.

On May 18, 1977, this Court approved the parties' stipulation modifying the outstanding orders to divide the county into two parts, an "up [or north] county" and "down [or south] county" area.[5] The thirty percent maximum ratio for school enrollments continued to apply throughout the county, but the order established separate minimum ratios equal to one-half the total enrollment ratio (at the appropriate grade level) in each area.[6]

On November 26, 1980, this Court approved a further stipulation of the parties refining the approach to the modification of attendance zones. The stipulation provided that the district utilize "overprojection" of black satellite areas (assigning a greater number of black

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[5] In the same May 18, 1977 Order, this Court certified the suit as a class action brought "on behalf of all Negro children eligible to attend the public schools of Pinellas County, Florida, from the inception of this cause, currently, and in the future."

[6] The stipulation also sought to ameliorate the problem created when a school's actual enrollment differed from the anticipated enrollment and exceeded the 30% maximum. The stipulation provided, *inter alia*, that the district would not be required to reassign students after the beginning of the first or second school year in which a school exceeded the maximum ratio, if the board had made a good faith effort to zone the school below the maximum. It also articulated a set of "principles" to be "applied in making good-faith projections," and included the following language:

> 5. The following shall be applied in implementing the above: . . .
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> b. When it is projected that the ratio may be over 30% and the school is under capacity, the white area should be expanded to bring the ratio below 30% allowing for a margin of error without a further rezoning after school begins. On the other hand, when the school is projected to be over 30% and is also over capacity, black students should be projected out on the same basis.

October 27, 1976 Stipulation of the Parties, at 3-4 [attached to Order of Amendment to Final Order and Amended Judgment, May 18, 1977.]

students to those areas than required to meet the countywide minimum), which compensated in turn for anticipated but indefinite attrition and lessened the likelihood of disruptive reassignments after the beginning of a school year. Further, the stipulation provided for the district's employing "underprojection" of contiguous zones in predominantly black portions of the system (to allow for demographic changes, viz., increases in the relative minority prohibition, without causing schools to exceed the countywide maximum, again with the objective of lessening the likelihood of student reassignment after the beginning of a school year). In addition, under the stipulation, if a school was projected to exceed the maximum minority enrollment ratios but was simultaneously overcrowded, the contiguous and predominantly minority portion of the applicable zone reduced proportionally in size; conversely, where a school exceeded the maximum but was under capacity, the predominantly white "satellite" portion of the attendance zone enlarged.

On June 3, 1982, again pursuant to the parties' stipulation, the governing orders were amended to eliminate the thirty percent black enrollment maximum and to substitute a "floating" target based on the total student enrollment proportions--by race and grade level--in each of the two areas into which the system had been subdivided in 1977. This modification was intended both to account for the modest overall increase in black pupils in the school system after 1971 and also to minimize reassignments of black children while still ensuring that all schools remained desegregated. The stipulation also extended the approach, adopted in 1977, of avoiding reassignments after the school year began unless the maximum targets had been exceeded for consecutive years by specified amounts despite good faith attempts

to rezone (utilizing the "underprojection" and "overprojection" techniques). Finally, the stipulation modified the tolerance levels originally established in 1977.

On July 2, 1985, the parties agreed that the requirements of earlier orders need not apply to require the reassignment of nine black students from one up-county high school to another in the 1985-86 school year. The Court approved that modification. This exception was continued by a stipulation approved by this Court on October 2, 1986, in which the parties also agreed to a more general exemption, on an experimental basis, from requiring zone shifts and reassignments after the beginning of a school year. This latter general exemption was extended through the 1991-92 school year in the parties' subsequent stipulation, approved by this Court on June 2, 1988. [7]

On April 24, 1989, the Court approved the parties' further stipulation authorizing the school district to establish magnet school programs at four high schools in the system. On February 1, 1993, the Court approved the creation of additional magnet programs at two middle schools and two elementary schools. On May 26, 1998, the Court approved a broader magnet program "without prejudice to further review by the Court or the plaintiffs of the implementation of the program and the consequences and status of the program."

On April 8, 1996, the Court approved the parties' stipulation concerning Bay Point Elementary school zoning. Continued negotiations concerning practical problems affecting

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[7] The 1988 Stipulation and Order also contained specific provisions with respect to the desegregation status of Lakewood High School. *See Bradley v. Pinellas County School Bd.*, 165 F.R.D. 676, 684 n.45 & accompanying text (M.D. Fla. 1994), *aff'd in part and appeal dismissed in part by mem.*, 110 F.3d 797 (11th Cir. 1997).

Bay Point "and any other pertinent issues involving the desegregation court order" resulted in a further stipulation concerning Bay Point Elementary, approved by the Court on November 29, 1996.

On June 17, 1998, in an effort to focus the parties' disputes and define specific disagreements, the Court directed the School Board to submit a report identifying "those areas that, in the view of the School Board, had achieved unitary status and whether the plaintiffs agree with that conclusion." The Court's order further provided that

> for each area that has not achieved unitary status, the report shall identify (1) the specific steps undertaken or planned by the defendants, if any, to achieve unitary status and whether the plaintiffs agree with those steps and their sufficiency and (2) the amount of time required to achieve unitary status.

A report containing comprehensive information about both the history of desegregation efforts by the School Board and the results that had been achieved was submitted to the Court on August 20, 1998. The plaintiffs responded on October 9, 1998, and amended their response on October 13, 1998. As summarized in a later filing, the plaintiffs (1) agreed that the School Board "had achieved unitary status with regard to transportation [and] achieved unitary status with regard to administrative staff so long as opportunities for advancement continued into the future [but] [(2)] object[ed] to and disagree[d] with the Defendants' claim of having achieved unitary status with regard to extracurricular activities, faculty, quality of education, student assignment, and facilities and resource allocation."

The parties began a series of discussions about their differences on these issues and upon the School Board's proposal to fundamentally modify the method of student assignment by developing a "choice" plan. On December 17, 1998, the parties filed a "Joint Stipulation

on Student Assignment" covering the 1999-2000 school year and an accompanying "Unitary Status Agreement." On January 8, 1999, the Court conducted a status conference concerning these submissions, at which the Court (1) expressed reservations arising from the indefiniteness of many of the provisions of the proposed unitary status agreement and (2) questioned whether any ascertainable and enforceable agreement had occurred and whether unduly protracted judicial supervision of this litigation would ensue because of the indefiniteness of the proposal. The Court regarded the proposal as laudable in intent but palpably indefinite and largely unenforceable owing to ambiguity. However, the parties' manifest intent to achieve a solution, coupled with the deficiencies apparent in the parties' proposal, suggested the appointment of a mediator. Accordingly, on January 13, 1999, the Court entered an order approving the stipulation covering student assignment for the 1999-2000 school year and appointing a qualified mediator, Peter J. Grilli, to assist the parties in reaching "an amicable and final resolution of this litigation."

On May 4, 1999, following extensive proceedings conducted with the assistance of the mediator, the parties filed a "Stipulation for Unitary Status in the Areas of Facilities and Resources, Transportation, and Administrative Staff Assignment." On July 14, 1999, the Court entered an order covering those subjects, which was amended *nunc pro tunc* on August 30, 1999, by the entry of an "Amended Order Granting Unitary Status in the Areas of Facilities and Resources, Transportation, and Administrative Staff Assignment." The provisions of this order, one of two parts of the parties' overall agreement resolving this litigation, will be further described in the balance of these findings. However, it is appropriately summarized in the following excerpt from its introductory language:

The parties stipulate that both the PINELLAS COUNTY SCHOOL BOARD (the School Board) and the other defendants, through their actions and by their agreement to the provisions of this Order, have eliminated the vestiges of discrimination from the dual school system formerly operated in Pinellas County in the areas of facilities and resources, transportation, and administrative staff assignment and have attained unitary status in those areas.

Accordingly, the Court adjudges (1) that the Defendant shall comply in each of the areas of Facilities and Resources, Transportation, and Administrative Staff Assignment with the provisions of this order, (2) that this Court withdraws supervisory jurisdiction in the areas of Facilities and Resources, Transportation, and Administrative Staff Assignment, and (3) that all previous orders to the extent that they are applicable to Facilities and Resources, Transportation, or Administrative Staff are vacated, except the "Final Order" of July 23, 1971, as amended, which remains in force and effect in all respects consistent with this Order.

On December 22, 1999, the parties filed a "Stipulation for Unitary Status in the Areas of Extracurricular Activities, Faculty Assignment, Student Assignment, Relative Quality of Education, and Mandatory Injunction." Because this stipulation, in combination with that approved earlier in 1999, prospectively resolved all outstanding issues in this litigation and provided for the Court's relinquishment of active judicial supervision, the parties on January 31, 2000, submitted a "Joint Motion Requesting Preliminary Approval of Compromise and Settlement of Case and for the Provision of Notice to the Class" pursuant to FED. R. CIV. P. 23(e).

On February 1, 2000, the Court (a) granted the parties' motion; (b) preliminarily approved the proposed settlement "subject to consideration of any objections by members of the plaintiff class"; (c) required that notice be given of the proposed settlement by publication (in the form of both display advertising and legal advertising) at least twice in the *St. Petersburg Times* and *The Weekly Challenger*, by flyer distributed to all students enrolled

in the school system, by posting on the school district's website, and by providing the relevant documents for public inspection in various facilities of the school district; and (d) scheduled a Fairness Hearing on February 28, 2000, "for the purpose of considering any objections by members of the plaintiff class to the proposed settlement."

On February 28, 2000, the Court conducted a Fairness Hearing. The Court received exhibits, heard testimony from Mr. Leon Russell, immediate past president of the Florida NAACP, on behalf of the plaintiffs and from Dr. Howard Hinesley, Superintendent of the Pinellas County School District, on behalf of the defendants, and entertained comments about the proposed settlement from a representative of the City of St. Petersburg, as well as seventeen individual citizens and an attorney representing interests that sought "charter school" status for the Marcus Garvey Academy (MGA).

On March 13, 2000, the Court wrote a letter to counsel iterating concerns raised during the Fairness Hearing regarding the potential effect of the legislative authorization of charter schools upon the ability of the Pinellas County School Board to fulfill the proposed agreement. On April 5, 2000, the Court entered an order requesting additional information on this subject. Specifically, the Court "requested assurance, by the adoption of pertinent policies or other means, that the School Board will remain ready, willing, and able by reasonable and practicable means to implement its obligations under the settlement agreement during the term of its duration." The School Board requested a hearing on that subject, which hearing occurred on April 28, 2000. The parties consequently conducted further negotiations with the assistance of the mediator and, immediately before a status conference conducted before the Court on June 29, 2000, submitted an "Amended Stipulation for Unitary Status in the Areas

of Extracurricular Activities, Faculty Assignment, Student Assignment, Relative Quality of Education and Mandatory Injunction," which contained provisions specifically addressing the standards for approval and operation of charter schools during the term of the agreement.

The Court finds, therefore, that this matter is ripe for determination. Succinctly stated, the issue is whether the parties' proposed settlement of this action, as embodied in the amended order entered August 30, 1999, the stipulation filed December 22, 1999, and the amended stipulation described in the preceding paragraph (which the Court refers to hereafter as the parties' "Agreement") satisfies applicable legal standards and warrants approval.

Provisions of the Parties' Settlement Agreement

The Agreement negotiated by the parties provides a framework within which to prolong their efforts, begun and continued throughout this litigation, to accomplish and preserve (without the necessity of continuing supervision by the federal judiciary), the elimination of all remnants of the discriminatory practices of the past. In that respect, the Agreement, if adopted and implemented, "both effectuates the goal of constitutional compliance and restores control of the School District's operations to local officials, constrained judicially only by the terms of their voluntary agreement." *Blalock & United States v. School Bd. of Lee County*, No. 64-168-Civ-FtM-23 (M.D. Fla. July 12, 1999), at 14.

In general, the Agreement provides for an orderly, planned transition in student assignments to a "choice plan" without explicit racial controls but which includes a goal of equitably operating schools with diverse enrollments. Also, the Agreement includes several explicit implementing provisions, encapsulated as follows:

Facilities and Resources.

a. The Agreement provides that the School Board shall construct several new schools and add new student stations by new construction of permanent facilities, thereby creating additional capacity for enrollment at the elementary grade level of approximately 2,587 student stations in the part of the school district that is south of Central Avenue and east of 58th Street South in St. Petersburg.

b. The Agreement provides that the School Board shall construct one new middle school within the same area of St. Petersburg with permanent capacity of at least (approximately) 1,000 student stations and that the Board shall add permanent capacity equal to 600 student stations at the high school level within the same area.

c. The Agreement calls for the School Board to remodel and renovate Gibbs High School "in a manner equivalent in quality to the renovations at Boca Ciega, Seminole, and Clearwater High Schools."

d. The Agreement includes specific timetables, benchmarks, and reporting requirements to assure completion of these improvements in facilities.

e. The new construction, remodeling, and renovation required by the Agreement will help to assure that, when the choice plan without racial controls becomes fully effective, adequate space exists to accommodate the anticipated resident student enrollment within the designated area of St. Petersburg (which is not presently the case).[8]

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[8] This area includes the residences of substantial numbers of African-American pupils and their families. *See Bradley v. Pinellas County School Bd.*, 165 F.R.D. at 682, text at n.22.

f. The Agreement requires non-discriminatory distribution of educational resources among all schools and includes a specific non-discrimination requirement with respect to future additions or renovations to school facilities.

g. Finally, the Agreement establishes the District Monitoring and Advisory Committee (DMAC). DMAC shall receive from the School Board relevant information sufficiently in advance to enable DMAC to provide the School Board with recommendations and advice concerning compliance with the Agreement.

Transportation. The Agreement memorializes the parties' conclusion that all vestiges of prior discrimination in the area of pupil transportation (other than in connection with extracurricular activities) have been eliminated to the extent practicable. The Agreement also provides that the School Board "shall continue to make transportation equally available to all students without regard to race" and shall, at least annually, report to DMAC on this subject and receive any recommendations from DMAC "relative to the equity of transportation services being provided to minority students."

Administrative Staff Assignment. The Agreement recognizes the parties' concurrence that a diverse administrative staff, such as that assembled by the School Board operating under the prior orders of the Court, is educationally desirable. The Agreement commits the school district to continue efforts, including its minority career development conference, minority leadership training program, and special projects, such as Leadership 2000, to maintain a level of diversity equal to that which existed in the 1998-99 school year. As with other subjects under the Agreement, the School Board shall provide information to and receive recommendations from DMAC with respect to administrative staff diversity.

Extracurricular Activities. Under the terms of the Agreement, the School Board will adopt a policy of non-discrimination in extracurricular activities, will maintain statistics on participation in extracurricular activities at each school, will encourage the scheduling of activity periods during the school day to facilitate participation by students who do not reside in the immediate area of the school, and will consider the importance of facilitating extracurricular participation by all students when the School Board determines whether to operate after-school activity buses under a choice plan. The Superintendent (or a designee) will provide DMAC at least annually with statistical information concerning participation in extracurricular activities, disaggregated by race and sex; and DMAC shall make pertinent recommendations to the School Board.

Faculty. The Agreement reflects the parties' shared belief that the education of all students, especially black students, will be facilitated and enhanced if the school district employs a substantial number of qualified and certified black teachers. The Agreement also records the parties' recognition that in recent years the School Board's recruitment of such teachers has improved, at least in part because the School Board has classified such teachers as being in "critical shortage." Therefore, the Agreement requires the School Board (1) to maintain that classification so long as a significant difference (which is defined mathematically within the Agreement) persists between the proportion of black students and the proportion of black teachers and (2) to continue active recruitment efforts focused particularly upon grade levels and subject areas in which black teachers within the system are currently under-represented. The district shall report on these matters to DMAC in anticipation of receiving DMAC's advice and recommendations.

Student Assignment. The Agreement contains procedures for completing development of, and effectuating transition to, a new method of student assignment under which parental choice among identified schools within a defined geographic "choice area" of the school district will become the primary determinant of assignment.

a. Certain parameters of the choice plan are established within the Agreement, while others will be determined by the School Board after additional public comment and upon consideration of the views of DMAC and representatives of the plaintiffs.

b. Both (1) any disputes or disagreements involving the choice plan ultimately adopted by the School Board and (2) the choice plan's consistency with the requirements or limitations imposed by the Agreement are subject to resolution through the Alternative Dispute Resolution mechanism established by the Agreement.

c. The Agreement provides that during the next three school years student assignments shall continue to be made substantially as they are at the present time, under the Court's prior orders, with specified modifications of applicable ratios. Commencing with the 2003-2004 school year and for four school years, the district is to operate a "controlled choice" plan, under which selections among schools within a designated choice area are constrained by limitations designed to maintain racially diverse enrollments at all schools. Beginning in the 2007-08 school year, all racial ratio requirements shall be eliminated and the district will operate an "area choice" plan.

d. During the phase-in of the choice plans, current countywide fundamental and magnet programs shall continue to operate, but capacity of the optional schools or programs shall not increase until the uncontrolled area choice plan begins in the 2007-08 year.

e. The Agreement recognizes the authorization that has been provided by the State of Florida for the operation of publicly funded charter schools within public school systems. However, the Agreement imposes limitations, founded on the need to assure compliance with the Agreement, upon the operation of charter schools within Pinellas County during the phase-in of the area choice plan. During that time, the Agreement provides that schools operated pursuant to charters granted by the School Board must meet the racial enrollment requirements applicable to other schools within the system under both the Agreement and the Court's order of approval. The Agreement also provides that during that time each charter school will have a student enrollment of such a size as to ensure that neither the charter school's approval by the School Board nor its consequent operation will materially or noticeably impair the School Board's ability to comply with the Agreement or the Court's order of approval. The Agreement also provides a formula for ensuring compliance. The School Board will also provide an opportunity for plaintiffs' counsel and separately for DMAC to review and comment on charter school applications before the School Board takes any action on them. Proposed charter contracts must be provided also to plaintiffs' counsel and to DMAC to provide an opportunity to review and register any objections. Any disputes

concerning approval of charter applications are subject to resolution through the Alternative Dispute Resolution mechanism established by the Agreement.

Quality of Education.

a. On June 18, 1998, before negotiation (with the assistance of the mediator) of the Agreement presently under submission, the parties had entered into a stipulation regarding "development and implementation of a plan addressing black student achievement, black student discipline, and assignment of black students to classes and programs." The school district has begun implementation of that plan.

b. On December 15, 1998, the parties further agreed in a separate document to establish a monitoring and advisory committee to receive and analyze information from the district regarding the results under that plan and to provide recommendations and advice thereon to the School Board.

c. In the Agreement the parties commit to continue to abide by the terms of their June 18, 1998, and December 15, 1998, stipulations, except as modified or supplemented by the terms of the Agreement. DMAC is to assume the functions of the monitoring and advisory committee contemplated in the December 15, 1998, stipulation.

d. The Agreement specifies the goals toward which the parties agree that the school district, students, and parents should strive in implementing the plan in the areas of student achievement, discipline, and assignment to classes and

programs. The dominant theme is the reduction or elimination of racial disparities in these areas.

e. To facilitate accomplishment of the goals, the Agreement provides that the Superintendent shall at least annually provide data disaggregated by race and sex in each of the three areas to DMAC, which shall evaluate and analyze the data and provide recommendations to the School Board.

District Monitoring and Advisory Committee. The Agreement requires the School Board to create (in a manner consistent with the Florida Administrative Procedure Act) DMAC "to assess and advise" the Board concerning the subjects encompassed in the Agreement as well as other "issues of equity, diversity, and the school district's achievement and maintenance of a unitary school system."[9] Members of DMAC are appointed by the School Board, local NAACP branches, and organizations representing teachers, administrators, and parents of pupils enrolled in the school system. One of the major tasks of DMAC, as noted above, is to assess the school district's achievements in reducing or eliminating racial disparities in student achievement, discipline, and enrollment in, or assignment to, special classes and programs, as well as to comment upon or initiate recommendations concerning other specific areas covered by the Agreement. The Agreement explicitly provides that DMAC shall receive substantial information, disaggregated by race as appropriate, concerning the operation of the school system,

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[9] Upon establishment of the DMAC, the Biracial Advisory Committee previously created pursuant to the Court's prior orders of April 15, 1971, and July 23, 1971, as amended, remained in existence only during a three-month transition to provide assistance and advice to the DMAC.

including information relating to student assignment as the school district completes the transition from the current method of assignment to a choice plan without racial controls.

Alternative Dispute Resolution Procedures. The Agreement establishes a mediation procedure for resolving disagreements among the parties with respect to its interpretation or implementation. If mediation proves unsuccessful, any party may seek appointment of a Special Master from this Court. If necessary (a circumstance the parties to the Agreement characterize as "remote"), objections to the Special Master's Report shall be determined by this Court.

Counsel for all parties have executed the documents constituting the Agreement on behalf of the clients whom they represent, and all parties join in seeking the Court's approval of the Agreement and its final dismissal of this case in accord with the Agreement.

Objections to the Settlement Agreement

Pursuant to the public notice of the proposed settlement of this action, published or disseminated in accordance with this Court's prior order preliminarily approving the Agreement, the Court received approximately forty written comments concerning the proposed settlement or requests to appear at the Fairness Hearing to speak about the settlement. Not all of these comments or requests were from members of the plaintiff class.

A substantial number of the written comments and nearly half of the eighteen speakers at the Fairness Hearing were residents of the "up-county" portion of Pinellas County, especially Palm Harbor, who expressed concern over the change from what they

regard as "neighborhood schools" under the current plan to a choice plan that might require pupil transportation. Several of these speakers stated that they had selected the area of the county in which to purchase a home in order to ensure that their children attended a particular school.

In contrast, at least one African-American parent who spoke at the Fairness Hearing emphasized that since 1971 black pupils have borne the overwhelming burden of transportation for purposes of desegregation and that black parents residing in south-central St. Petersburg could not, in contrast with up-county residents, select housing for the purpose of determining the schools their children attend. The speaker suggested that there should be "neighborhood schools everywhere or nowhere," and that the assignment plan should avoid requiring her four elementary-grade level children to attend schools in different parts of the county. (A "sibling preference," which responds to part of this speaker's concern, will be included in the choice plan.)

Several speakers at the Fairness Hearing addressed issues both particularized and generic, including class size, special education, discipline, and the like, leading at least one of those speakers, a member of the plaintiff class, to assert that the district was not yet unitary.

The Court also received, as an exhibit and without objection from any party, a newspaper article that appeared on the morning of the Fairness Hearing. The article purports to recount the views of one of the original named plaintiffs, Charles Rutledge, who was unable to attend the hearing. Assuming the accuracy of the article (which no one challenged), Mr. Rutledge opposes dismissal of the case and expressed concern that, if this

Court relinquishes active supervision, discrimination might recur, notwithstanding the commitments in the Agreement.

Four speakers at the Fairness Hearing, who were representative members of a larger group, and the attorney for the group objected to the requirement in the Agreement that, during the transition to area choice, charter schools comply, as a condition to their charter, with the racial enrollment requirements applicable to other public schools.[10] These speakers were associated with MGA, which sought approval to operate in south-central St. Petersburg with not more than 45 pupils, each of whom had encountered academic difficulties in the school system. MGA is designed to offer Afrocentric curriculum and teaching techniques, which MGA's staff currently provides only in after-school tutoring and instructional programs.

Plaintiffs' counsel notified the School Board that the plaintiffs objected to the School Board's approval of MGA's charter because the school would not meet the racial enrollment requirements of either the current decree or the Agreement but was almost certain to be an all-black school.

MGA's attorney conceded that MGA was likely to be an all-black school but pointed to MGA's small enrollment (45) as an indication that it poses no threat to the success of the district's maintenance of desegregation during the transition to an area choice plan. He further explained that because of different enrollment limitations in the "down-county" and "up-county" areas, charter schools could be approved in the northern portion of

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[10] One of the speakers presented a number of petitions endorsing the Marcus Garvey Academy, which the Court received collectively as an exhibit.

Pinellas County even if they were likely to have all-white enrollments, producing an allegedly unfair double standard.

Conclusions of Law

In class action lawsuits, a strong judicial policy favors settlements. *See Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984); *United States v. City of Miami*, 614 F.2d 1322, 1344 (5th Cir. 1980); *Cotton v. Hinton*, 599 F.2d 1326, 1351 (5th Cir. 1977). In school desegregation cases, the public interest is served when the parties formulate lasting solutions to divisive litigation. "A remedy that everyone agrees to is a lot more likely to succeed than one to which the defendants must be dragged kicking and screaming." *Little Rock School Dist. v. Pulaski County Special School Dist.*, 921 F.2d 1371, 1383 (8th Cir. 1990). *Accord United States v. City of Jackson*, 519 F.2d 1147, 1152 (5th Cir. 1975).

Settlements such as the one presented here are entitled to a presumption of validity. *United States v. Texas Educ. Agency*, 672 F.2d 1104, 1108 (5th Cir. 1982). *Accord Armstrong v. Board of School Directors of Milwaukee*, 616 F.2d 305, 321 (7th Cir. 1980); *United States v. Board of Public Instruction of St. Lucie County*, 977 F. Supp. 1202, 1206 (S.D. Fla. 1997); *Lee v. Randolph County Bd. of Educ.*, 160 F.R.D. 642, 646 (M.D. Ala. 1995). *See also Little Rock School Dist.*, 921 F.2d at 1383. Settlement in complex cases is particularly favored because settlement contributes to judicial efficiency by preserving "scarce judicial resources." *See Cotton*, 559 F.2d at 1331; *Behrens v. Wometco Enterprises, Inc.*, 118 F.R.D. 534, 538 (S.D. Fla. 1988), *aff'd*, 899 F.2d 21 (11th Cir. 1990).

The role of this Court in reviewing the proposed settlement of a class action under FED. R. CIV. P. 23(e) is first to ensure that the procedures followed meet the requirements of that rule and of due process. In other words, the Court should ensure fundamental procedural regularity and fairness.

On February 1, 2000, preliminarily the Court approved the parties' settlement and directed publication of newspaper notice (and other notice) to permit interested parties to object to the settlement or to otherwise comment. The notice of the settlement and fairness hearing was effected by both display and legal advertising in the *St. Petersburg Times* and *The Weekly Challenger*, and by a flyer distributed to all students enrolled in the school system, by posting on the school district's website, and by providing the relevant documents to the public for inspection in various facilities of the school district. The Court received written comments and, as previously noted, one of the speakers at the fairness hearing submitted a group of petitions concerning the Marcus Garvey Academy.

These circumstances evidence that parents and members of the community were aware of both the litigation and the proposed settlement. The Court finds compliance with the notice requirements of FED. R. CIV. P. 23(e).

Following the submission of the "Amended Stipulation for Unitary Status in the Areas of Extracurricular Activities, Faculty Assignment, Student Assignment, Relative Quality of Education and Mandatory Injunction" (the Amended Stipulation) on June 29, 2000, two parents (appearing on behalf of their children) who wish to have those children

attend MGA[11] filed a "Motion for Final Fairness Hearing." This motion sought to have the Court conduct an additional fairness hearing in light of the submission of the Amended Stipulation. However, the motion was not based upon a suggestion that a class member had failed to receive notice of the original fairness hearing. The Court has reviewed the Amended Stipulation and concludes that the modifications concerning charter schools merely amplify and explicate the manner in which the original Agreement committed the parties to allow charter schools to be established and to operate consistently with the requirements of the Court's orders and the Agreement. MGA and its supporters, as noted above, had a full opportunity (and availed themselves of that opportunity) to express an opinion concerning the Agreement and its effect on charter schools at the February 28, 2000, Fairness Hearing, and the Court has been fully informed of the substance of their concerns. For these reasons, the Court concludes that there is no need for an additional hearing. The modifications merely ensure by specific mechanisms the School Board's prospective compliance with the Agreement; the modifications effect no change in the Agreement. Accordingly, the "Motion for Final Fairness Hearing" (Doc. 262) and "Renewed Motion for Final Fairness Hearing" (Doc. 267) are DENIED.

The Court next must review the settlement agreement to determine if it is "fair, adequate, and reasonable, and is not the product of collusion between the parties." *Bennett*, 737 F.2d at 986; *City of Miami*, 614 F.2d at 1333; *Cotton*, 559 F.2d at 1330. Phrased negatively, the Court must analyze whether the agreement is "unconstitutional,

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[11] These same parents filed, on April 25, 2000, a "Motion to Intervene" in this matter, which the Court denied.

unlawful, . . . contrary to public policy, or unreasonable," *City of Miami*, 614 F.2d at 1333. *See Piambino v. Bailey*, 757 F.2d 1112, 1139 (11th Cir. 1985), *cert. denied*, 476 U.S. 1169 (1986); *City of Jackson*, 519 F.2d at 1151; *Board of Public Instruction of St. Lucie*, 977 F. Supp. at 1206. If a settlement agreement passes this analysis, the Court can reject the agreement only if a "principled reason" requires rejection. *See City of Miami*, 614 F. 2d at 1332; *Board of Public Instruction of St. Lucie*, 977 F. Supp. at 1206.

To determine if a settlement is fair, adequate, and reasonable, the Court considers: 1) the likelihood of success at trial; 2) the range of possible recovery; 3) the point(s) along the range of possible recovery at which a settlement is fair; 4) the complexity, expense, duration, and possible outcomes of further litigation, including an assessment of the presence of notable uncertainty in the outcome; 5) the substance of opposition to the settlement; and 6) the stage of the proceedings at which the settlement was achieved (i.e., generally, the completeness of the definition of the issues and the maturity of the action). *See Bennett*, 737 F.2d at 986; *Cotton*, 559 F.2d at 1330-31; *Miller v. Republic Life Ins. Co.*, 559 F.2d 426, 428-29 (5th Cir. 1977).

The Court should not attempt to "try the case during [the] settlement hearing and should be hesitant to substitute [its] own judgment for that of counsel." *In re Smith*, 926 F.2d 1027, 1028 (11th Cir. 1991). *See also City of Miami*, 614 F.2d at 1331; *Cotton*, 559 F.2d at 1330.

Consideration of these factors weighs heavily in favor of approving the proposed settlement agreement. The Court concludes that the School District's good-faith compliance with earlier decrees in this action, the results of that compliance to date, and

the enforceable commitments embodied in the settlement agreement, especially considered together, provide an adequate and appropriate basis for both a finding of full unitary status and consequent dismissal of this lawsuit.

In the amended order entered August 30, 1999, *nunc pro tunc* July 14, 1999, in accord with *Freeman v. Pitts*, 503 U.S. 467 (1992), the Court formally relinquished its supervisory jurisdiction in several benchmark areas of school operation identified in *Green v. County School Board of New Kent County*, including facilities and resources, transportation, and administrative staff assignment. The parties' December 22, 1999, stipulation contains recitations concerning unitary status in the area of extracurricular activities, faculty assignment, student assignment, and relative quality of education. The Amended Stipulation of June 29, 2000, contains further clarification relating to charter schools. These circumstances, among others, support approval of the Agreement, which contemplates a final dismissal, the vacation of earlier orders, and the withdrawal of supervision, subject only to retention of jurisdiction to enforce the Agreement in the unlikely event that any alleged violation occurs.

The parties to this case have actively collaborated in recent years to address and resolve a variety of practical problems in desegregation. The School Board's good faith commitment to the purposes of the Court's decrees in this matter is demonstrated by its commitment in the Agreement to work toward eliminating remaining disparities between black and white students in achievement, discipline, and assignment to special classes.

Under these circumstances, the parties have suggested, and the Court agrees, that the provisions of the Agreement are appropriate final steps in remedying the original

constitutional violation that necessitated this litigation. The Court's order dismissing this case pursuant to the terms of the parties' Agreement and vacating all injunctive decrees previously entered in the case, therefore, is necessarily conditioned upon substantial and good faith performance of the terms of the settlement Agreement. As the Agreement provides, the Court will retain ancillary jurisdiction to act, if ultimately necessary, to ensure implementation of the terms of the Agreement. *See Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 381 (1994).

This settlement was reached at a very advanced stage of this litigation, a factor which also gravitates in favor of approval. This litigation is thirty-six years old. In recent years, the parties have shared information cooperatively on student assignment and other issues. The School District has filed its annual student assignment data in reports to the Court and parties. The parties have had an unusually extensive opportunity to assess their litigation risks as the School District moved toward a potentially contested, unitary status hearing. The several counsel for the plaintiff class have assessed those risks reasonably and together recommended the settlement, based on years of experience both in this case and, in one co-counsel's instance, broad and deep experience for more than thirty years in school desegregation class actions throughout the nation.

The parties have resolved their differences for many years with deliberation and care and with no apparent reluctance to litigate issues on which they have differences. The evidence before the Court (as well as the Court's years of presiding in this and two similar actions) supports the conclusion that settlement discussions were both detailed and earnestly adversarial. The Court concludes that the proposed settlement is neither

collusive nor the result of undue timidity. The Agreement arose "at arm's length" between capable and energetic adversaries, having the skill and the capacity to litigate but, instead, knowingly and voluntarily electing to settle after informed and cautious assessment.

The Court has considered the complexity, expense, and likely duration of additional litigation. The litigation would continue on an indefinite course until the School District carried its burden of showing its entitlement to full unitary status. *See Board of Educ. of Oklahoma City Pub. Schools v. Dowell*, 498 U. S. 237 (1991). Where such proceedings have been contested, the trials often are protracted, with extensive expert and fact witness testimony; appeals frequently ensue; and uncertainty projects itself even further into the future. The parties have avoided this expense and delay (as well as the accompanying uncertainty, acrimony, and stress in the community) by charting an alternative course to unitary status.

Finally, the Court has weighed the comments of dissenting class members in arriving at its decision and is satisfied that the concerns reflected in these comments do not require disapproval of the settlement. Some class members are not confident that the School District will keep its commitments if this action is dismissed contingent upon performance of the Agreement. On the other hand, class counsel are satisfied by the School Board's history of cooperation and bona fide commitment to desegregation, by the enforceable nature of the commitments contained in the Agreement, and by the fact that this Court will retain ancillary jurisdiction to enforce the Agreement, if necessary. Under these circumstances, any residual dispute involves mere mechanics and strategy, not goals, and it is well settled that disagreements over the strategy to be pursued in

furtherance of a shared general objective provides no basis for rejecting a negotiated settlement that has the recommendation of competent class counsel, *see Pettway v. American Cast Iron Pipe Co.*, 576 F.2d 1157, 1215 (5th Cir. 1978) (citing *Cotton v. Hinton*, 559 F.2d 1326, 1330 (5th Cir. 1977)); *Armstrong v. Board of School Directors of Milwaukee*, 616 F.2d at 325, any more than they will support intervention in an ongoing lawsuit, *see United States v. Georgia*, 19 F.3d 1388, 1394) (11th Cir. 1994); *Bradley v. Milliken*, 828 F.2d 1186,1192 (6th Cir. 1987); *United States v. South Bend Community School Corp.*, 692 F.2d 623, 627 (7th Cir. 1982).

With respect to the concern that, unless this litigation continues, the School Board may allow the dual school system to recur, the Court finds that the Board has proceeded in good faith and is committed to fulfilling its constitutional obligations; any such recurrence is so unlikely that it presents no perceivable or cognizable threat. Class members' fears for the future may be understandable, especially in light of pertinent history, but in the absence of specific actions indicating more than a mere "possibility" of a future change of course, intangible apprehension provides no basis for frustrating the parties' considered settlement.

The Agreement itself provides enforceable protections against resegregation of the school system during the Agreement's life, protections that the class would not have if the Court concluded, following a contested evidentiary proceeding, that the Pinellas County School District has achieved "unitary status." In that instance, the Court--as required by the Supreme Court of the United States--would terminate this lawsuit and vacate its prior orders.

In addition, any concerned citizen or resident should understand that the Constitution of the United States, now and forever, forbids the creation and maintenance of a dual school system. Should that infamous and offensive system recur, here or elsewhere in the United States, the Constitution promises to anyone so aggrieved both a prompt and plenary remedy, available through the federal judiciary, which is committed organically and unequivocally to the extinction of that insufferable insult to liberty.

The Court has carefully considered the objections to the Agreement raised by the organizers and supporters of MGA and concludes that they do not provide grounds upon which the Agreement should be rejected. First, the Court is satisfied that there are neutral, independent, and sufficient grounds supporting the School Board's determination to distinguish MGA's charter school proposal from those of other applicants that the School Board approved, including an "Athenian" theme charter in the northern part of Pinellas County and the contemplated Bay Village school in St. Petersburg.[12] According to the Superintendent's testimony, the grounds for his recommendation to the School Board that MGA's application be disapproved were not limited to inconsistency with the parties' Agreement in light of the school's prospects of a racially uniform enrollment but were based on other palpable deficiencies as well. Moreover, Florida's charter school statute,

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[12] At the conclusion of the Fairness Hearing, the Court asked the School Board to submit information concerning the criteria that the Board uses in passing upon applications to operate charter schools. The Board at its meeting on March 14, 2000, adopted revised criteria for this purpose, which have been submitted to the Court. These criteria include the requirements of Florida law summarized above as well as other requirements relating to educational quality, management capacity, etc. The Court conducted a status hearing with regard to charter schools and those criteria on March 22, 2000. The representations and commitments made by the parties through counsel at that hearing as evidenced by the transcript of that hearing are a part of the agreement between the parties relating to charter schools.

apart from the Agreement, appears to establish that MGA's prospective enrollment is an adequate basis for disapproval. *See* Fla. Stat. Ann. § 228.056(9)(a)(8) (1999) (charter school applications must demonstrate "[t]he ways by which the school will achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district); *cf. id.* at 228.056(6)(c)(4) (geographic preference zone for charter schools subject to requirements of federal court desegregation orders).

The attorney for the supporters of MGA argued, however, that the separate minimum and maximum ratio requirements for up-county and down-county result, as a practical matter, in an all-white or virtually all-white charter school in northern Pinellas County, which would not be regarded as inconsistent with the orders in this case, while MGA's expected all-black composition would be regarded as inconsistent with the orders because MGA is located in the down-county area. MGA characterizes this result as discriminatory because it purportedly burdens the black community in St. Petersburg disproportionately with respect to the opportunity to operate charter schools. However, the creation of different enrollment standards for up- and down-county areas in this case resulted from the practicalities of the geography and demographics and the parties' desire to avoid placing unnecessarily disproportionate transportation burdens on black students in achieving desegregation. The argument that this desegregation structure placed a discriminatory burden upon residents of central and southern St. Petersburg (and upon black parents and students in this area, in particular) was advanced by applicants for intervention in the early 1990's, was rejected by this Court (both formerly by Judge Wm.

Terrell Hodges and more recently by the present judge), and the rejection was upheld by the Eleventh Circuit. *Bradley v. Pinellas County School Bd.*, 165 F.R.D. 676 (M.D. Fla. 1994), *aff'd in part and appeal dismissed in part by mem.*, 110 F.3d 797 (11th Cir. 1997). Any issue arising from the "up-county" and "down-county" distinction resolved itself for the purposes of this action long ago.

At the Fairness Hearing, the Court also explored the matter of the potential for charter schools to compromise or impede compliance with the terms of the Agreement that concern student assignment. In his testimony, Superintendent Hinesley explained that depending upon which geographic areas of the district send substantial numbers of resident students to charter schools, the school district might be required (between the present school year and the beginning of "controlled choice" in 2003) to rezone more dramatically than the parties had originally contemplated in order to maintain compliance with the ratios established in the Agreement.[13] After "controlled choice" becomes operational, depending upon actual charter school enrollment trends and patterns, fewer students and parents may be able to receive their preferred choice of schools than would be the case in the absence of charter operations.

Indeed, based upon these possibilities, the Superintendent recommended to the School Board rejection or restriction of the application for a Bay Village school charter (proposed to enroll up to 750 middle school students by its third year of operation). The School Board, however, disagreed and approved the Bay Village application (but has not

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[13] In addition, again depending upon the exact charter school enrollment patterns that develop, such rezoning may require transportation of students over somewhat longer distances than has been the case in recent years under the existing orders.

granted the charter). The parties subsequently submitted on June 29, 2000, the "Amended Stipulation for Unitary Status in the Areas of Extracurricular Activities, Faculty Assignment, Student Assignment, Relative Quality of Education and Mandatory Injunction" in response to the Court's concern about the School Board's ability and willingness to successfully implement the Agreement and all of its terms.

The Court has also considered objections of parents (most of whom are not members of the plaintiff class) to the Agreement's requirement of a choice plan for student assignment. Clearly, allowing choice among schools is not (in and of itself) contrary to constitutional or statutory requirements. *See Green v. County School Board of New Kent County*, 391 U.S. at 439-40 ("freedom of choice" assignment is not itself unconstitutional but may be utilized for desegregation only if it promises realistically to work for this purpose). The State of Florida has authorized school districts to provide for parental choice among schools.[14] There is no basis for the Court to interfere with the locally elected School Board's decision to utilize a choice plan, or to negotiate with the plaintiffs to include this method of student assignment in the parties' settlement Agreement. This is so even if the Court would have no basis for requiring as a court-imposed remedy in this litigation that such a plan be fashioned and implemented. *Cf. Local 93, Int'l Assn. of*

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[14] *See, e.g.*, Fla. Stat. Ann. § 228.056(2)(d) (1999) (among purposes of state provisions for charter schools us to "increase choice of learning opportunities for students"); Fla. Stat. Ann. § 228.057(2) (1999) (Florida school districts must offer "controlled open enrollment" opportunities in addition to magnet and alternative schools); *id.* at § 228.057(1) ("'controlled open enrollment' means a public education delivery system that allows school districts to make student school assignments using parents' indicated preferential school choice as a significant factor"); Fla. Stat. Ann. § 229.0537(2) (1999) (establishing "Opportunity Scholarships" to allow students enrolled in non-performing public schools to attend, *inter alia*, private schools).

Firefighters v. City of Cleveland, 478 U.S. 501, 525 (1986) (parties may negotiate consent decree which gives broader relief than court could order after trial).

The only alternative to the proposed settlement would be a contested evidentiary hearing (preceded by discovery) before this Court on the "unitary status" question. *See Freeman v. Pitts*, 503 U.S. at 489-90 (terminating lawsuits and returning control of school systems to local authorities, as well as elimination of dual system, must be objective of federal courts in desegregation cases). The Court would have to determine whether the disparities alleged by objecting class members were causally related to the prior dual system before it could consider whether any judicially decreed relief in any of these areas would be appropriate. The outcome of proceedings on these questions is speculative but, as noted, the Agreement commits the School District to take actions aimed at reducing or eliminating those disparities to the extent possible.

The settlement before the court clearly was the product of compromise. The parties' final resolution of this matter has been many years in the making. The settlement that they unanimously advocate sets the tone for the future of the Pinellas County Public Schools. This is a fair and reasonable result for the members of the plaintiff class and the other children who will be affected by the settlement.

Conclusion

More than thirty-five years has elapsed since the initiation of this lawsuit by a group of citizens, comprising both students and parents, seeking to vindicate their right under the Constitution of the United States to equal protection of the law. At that time, the Supreme Court of the United States had insisted only recently on the notion that racially

separate schools were an inherently forbidden objective of governmental policy, a notion that is now impressed indelibly on our nation's law, our collective conscience, and our daily life. That government should not countenance the subordination of one citizen to another based on race is now accepted by all persons of reason and civility.

The decisions of the Supreme Court expound principles, now familiar almost universally, which appear in many cases, the names of which are now common sources of everyday conversation both within the law and without, and which rejected emphatically and with finality segregated schools that were putatively "separate but equal," required the achievement of unitary school systems with "all deliberate speed," provided for application of broad equitable remedies for constitutional deprivations based on race, and provided for persistent and insistent oversight by the federal judiciary until the formerly dual school systems righted themselves to the extent practicable in each of their principal undertakings. In the instance of the public schools, since 1954 throughout the United States and since 1964 in this particular case, persons of good will have labored to actualize the Constitution's promise of simple fairness--the promise of equal and zealous protection of the law. For the most part, three judges of the United States District Court--Joseph P. Lieb, Wm. Terrell Hodges, and the present judge--have presided in this case, each focused unalterably on guiding this action to a just and prompt conclusion, despite the profound impediments featured throughout the chapter of our nation's history that recounts the struggle to achieve placid and benevolent racial relations.

The impediments notwithstanding, the exertions of those who have pursued incessantly the establishment of a unitary and prosperous school system for Pinellas

County, Florida, have yielded a singular and salutary result, which it is the purpose of this order to formalize. The School Board of Pinellas County has achieved a unitary school system for the pervasive benefit of all its residents. A unitary school system, as that term is defined by the law in 2000, is a system that not merely has disestablished the pernicious racial segregation that scarred the school system and its participants before 1954 but to the extent feasible has erased the tangible vestiges of that infernal system to the extent that the hands and hearts of well-meaning persons in practicality can accomplish.

This admirable state of affairs accrues to the public's benefit only after the tireless efforts of persons too numerous to specify individually and whose purpose, in any event, was not public recognition. However, conspicuous among those whose steadiness, sound judgment, and good spirit generated this settlement and the progress that preceded it are Superintendent Howard Hinesley, John Bowen, Norman Chachkin, Enrique Escarraz, Roger Plata, and Dr. James Scaggs, as well as those acting in concert with them.

Several months ago the Court appointed Peter Grilli, who is among the nation's foremost mediators, to attempt to mediate this apparently intractable dispute. Since that day, progress toward a solution has been constant, despite occasional disruption, disagreement, and even some poorly considered and unfortunate public criticism. In fact, the process of skilled and sincere mediation, a practice long understood and accepted in labor relations disputes in the United States, 29 U.S.C. § 172, *et seq.*, offers almost unvaryingly an intelligent and just alternative to incessant litigation and contention, especially if overseen by a wise and dedicated mediator, such as Mr. Grilli. The need to preserve public resources and to expedite the resolution of disruptive public controversies

commends commitment of these matters to mediation. The resolution of this case simply evidences further that which was already manifest: a skilled mediator can assist parties in arriving at an agreement that otherwise might remain elusive. Additionally, this process retains for public view every occurrence and conversation that might otherwise have occurred in public, yet provides professional and sympathetic assistance to the communication of thoughts and words between the parties and, especially, their counsel. Hence, at no cost in public confidence or participation and preserving an opportunity for spirited public debate, a workable and just conclusion is achieved.

For all the foregoing reasons, the Court hereby approves the Agreement[15] as the parties' settlement of this case pursuant to FED. R. CIV. P. 23(e), dismisses this lawsuit and vacates all earlier orders, and withdraws federal supervision over the operations of the Pinellas County, Florida, school district (subject only to the retention of ancillary jurisdiction to enforce the Agreement if necessary). Prior to any request for judicial enforcement, the parties shall confer, share relevant information, and seek to resolve their differences by agreement. The clerk is directed to close the file.

ORDERED in Tampa, Florida, on August 16th, 2000.

STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE

[15] The Agreement comprises the parties' August 30, 1999, stipulation (Doc. 173), December 22, 1999, stipulation (Doc. 181), and June 29, 2000, amended stipulation (Doc. 261), each of which is formally and finally APPROVED.