

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

KEITH ELLISON, et al., }

Plaintiffs, }

UNITED STATES OF AMERICA, }

Plaintiff-Intervenor, }

v. }

Case No.: 5:63-cv-00613-MHH

**MADISON COUNTY BOARD OF
EDUCATION,** }

Defendant. }

MEMORANDUM OPINION AND ORDER

Consistent with its obligations under the desegregation order that governs this action, the Madison County Board of Education has asked the Court to approve grade configuration and attendance zone changes at Owens Cross Roads Elementary

School and New Hope Elementary School. (Doc. 188). Neither the private plaintiffs nor the United States opposes the Board's motion regarding reconfiguration and attendance zones. (Doc. 188, p. 7).

The Court must examine the Board's proposal to determine whether the proposal will advance, or at least do no harm, to the goals of this public-school desegregation case. *See Green v. Cnty. Sch. Bd. of New Kent Cnty., Va.*, 391 U.S. 430, 436 (1968); *Freeman v. Pitts*, 503 U.S. 467, 489 (1992). The Board must establish that the proposed grade reconfigurations neither perpetuates nor reestablishes a dual school system. On the record before the Court, the Board has met its burden.

New Hope Elementary is a Pre-K through 6th grade elementary school with classroom capacity for 668 students. (Doc. 184; Doc. 188-1, p. 1). Owens Cross Roads Elementary is a Pre-K through 6th grade elementary school with a classroom capacity of 429 students. (Doc. 188-1, p. 1). For the 2020–2021 school year, New Hope Elementary had an initial enrollment of 493 students, and Owens Cross Roads Elementary had an initial enrollment of 399 students. (Doc. 188-2, pp. 3–4). During the second semester 2020–2021, enrollment at Owens Cross Roads Elementary increased from 399 to 414 students, and enrollment at New Hope Elementary increased from 493 to 504 students. (Doc. 188-3, p. 1).

To reduce overcrowding at Owens Cross Roads Elementary School, the Board wishes to adjust the grade configurations by moving the Owens Cross Roads 5th and 6th grades to New Hope Elementary School beginning in the 2021–2022 school year. (Doc. 188, p. 2). Students from New Hope Elementary School and Owens Cross Roads Elementary School currently come together in the 7th grade at New Hope High School. (Doc. 188, p. 2). Because the Board wishes to adjust the grade configurations in the New Hope attendance zone for reasons other than desegregation, the Court does not evaluate the overall wisdom of the proposals but instead considers only the constitutional ramifications of the proposed changes.

The Board’s proposed grade changes to New Hope Elementary School and Owens Cross Roads Elementary School will not impact the Board’s efforts to comply with its desegregation obligations because the slight shifts in the racial composition of the student bodies at the two elementary schools cancel each other out. The student body of New Hope Elementary School currently is 3.57% Black and 84.92% White, and the student body of Owens Cross Roads Elementary school currently is 15.94% Black and 74.41% White. (Doc. 188, p. 4). If approved as proposed, the student population at New Hope Elementary School would be 6.63% Black and 82.26% White, and the population at Owens Cross Roads Elementary School would be 13.97% Black and 76.19% White. (Doc. 188, p. 5). Thus, the proposed grade reconfiguration will make the student body of New Hope

Elementary School minimally more diverse while minimally reducing the racial diversity of the student body at Owens Cross Roads Elementary School. Although the reconfiguration appears to do little to advance the goals of this action, the reconfiguration does no harm.

The Board has planned bus routes to accommodate the reconfiguration, and students will be assigned to those routes on a non-discriminatory basis. The Board has developed practical ways of communicating its reconfiguration proposal during the COVID-19 pandemic. (Doc. 188, pp. 5-7).

For the reasons discussed above, the Court grants the Madison County Board's Motion for Approval of Grade Configuration and Attendance Zone for New Hope Area Schools. (Doc. 188). The Board may move the Owens Cross Roads Elementary School 5th and 6th grade classes to New Hope Elementary School beginning with the 2021–2022 school year.

DONE and **ORDERED** this May 10, 2021.



MADELINE HUGHES HAIKALA
UNITED STATES DISTRICT JUDGE