

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

LITTLE ROCK SCHOOL DISTRICT,
et al.

PLAINTIFFS

v.

No. 4:82-cv-866-DPM

PULASKI COUNTY SPECIAL
SCHOOL DISTRICT, *et al.*

DEFENDANTS

LORENE JOSHUA, *et al.*

INTERVENORS

ORDER

We must not let the perfect become the enemy of the good. When implemented, the Jacksonville/North Pulaski School District's proposed facilities master plan will be a significant step toward equal facilities for all students. The new high school and middle school will serve children of all races. Locating the high school in downtown Jacksonville signals a commitment—not only to that city's hub, but to the many African-American families and their children who live close by.

The Court does not see a repeat of the Chenal/Maumelle history in the proposed new elementary school. First, the Arnold Drive and Tolleson facilities are some of the most antiquated in the new district. Second, overall enrollment at these two, which would be closed and combined, has been

declining; at the same time, the percentage of African-American students has been increasing. There's no evidence suggesting either a reversal of those trends or that the new school would become a white-flight school. Third, the new school is eligible for a Department of Defense subsidy because of the air base — as much as half the \$16 million price tag. In the circumstances, JNPSD's pursuing that opportunity shows good stewardship of limited public dollars, not discriminatory intent. Fourth, while all the elementary schools need replacing sooner rather than later, the district must start somewhere. And the other four elementary schools will each get a multi-purpose building now, which will replace portable buildings and which will be the start of new, better facilities for each.

As much good as there is in the proposed master plan, though, there's something missing. No plan or timetable for replacing the other four elementary schools (Bayou Meto, Dupree, Pinewood, Taylor) is included. Each has been improved somewhat in recent years. But to achieve unitary status, JNPSD must have a plan for making *all* facilities clean, safe, attractive, and equal, and must be implementing that plan in good faith to the extent practicable. The proposed master plan is a commendable first step. By 2019,

when the plan will be fully implemented, JNPSD will have made significant strides. But, notwithstanding the many challenges of setting up a new district, hiring everyone, and getting ready for the first day of school in September 2016, JNPSD must also give its attention now to when and how facilities at all the elementary schools will be equalized. The Court expects to receive that expanded master facilities plan by the end of 2016. The Court understands the uncertainties (for example, DOD funding, construction costs) and the many moving parts (the millage, State funding). That murky and complicated future, however, is precisely why JNPSD needs a complete plan for replacing all elementary facilities – with options, contingencies, fall backs, and play in the joints to accommodate the developing circumstances. Steering by the final destination will help JNPSD get there.

The Court appreciates the parties' briefing and evidentiary submissions, which are accepted. The report (as corrected) from the Court's expert was helpful too. With all those materials in hand, as well as other material matters of record, the Court does not need an evidentiary hearing to decide this issue. It has been almost five years since this Court, speaking through Brother Miller, looked back across preceding years and held that PCSSD had not acted

in good faith to achieve unitary status. *No. 4507 at 73–78, aff'd on this issue by Little Rock School District v. Arkansas, et al.*, 664 F.3d 738, 751–53 (8th Cir. 2011).

In the last several years, this Court has seen something different: PCSSD is making good progress toward becoming completely unitary; see the Donaldson Scholars Program; and see the Plan A/Plan B on facilities, which is being implemented. JNPSD has, in this proposed master plan, demonstrated a firm commitment to equal educational opportunities. By supplementing its plan to give particulars about when the district will replace Bayou Meto, Dupree, Pinewood, and Taylor elementary schools, the new district will confirm that commitment. JNPSD will show how the good is a step toward, if not the perfect, the excellent.

* * *

It's common ground that JNPSD complied with Plan 2000's timetable for notifying Joshua about these facilities issues. The Court holds that JNPSD's proposed master facilities plan, though incomplete, keeps faith with Plan 2000 and is likely to promote, not hinder, eliminating the vestiges of past discrimination insofar as practicable. The proposed master plan is approved with an important condition: it must be supplemented by 31 December 2016

with when-and-how specifics about replacing the four other elementary schools, so that all the new district's elementary schools are equal. Joshua's objections are overruled; and its request for an evidentiary hearing is denied. The parties should use January 19th for their monthly meeting. They should continue collaborating then about whatever facilities and staffing issues they believe need attention.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

14 January 2016