

COPY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT COURT OF FLORIDA

CASE NO. 64-721-Civ-ATKINS

DENISE SHARPTON, DARRYL  
SHARPTON, et al.,

Plaintiffs,

-VS-

THE BOARD OF PUBLIC INSTRUCTION  
OF INDIAN RIVER COUNTY, FLORIDA,  
et al,

Defendants.

502 D.C.  
MAY 2 1974  
U.S. CT.  
MIAMI

**REVISED ORDER APPROVING PLAN**

This cause arose based on the Parties joint Motion Requesting Approval of Revised Order Approving Plan. The School Board of Indian River County, Florida, hereafter referred to as the "School Board", and The National Association for the Advancement of Colored People, Indian River County Branch, hereafter referred to as the "NAACP", requested this Court's consideration and approval of a Revised Order Approving Plan which has been negotiated and approved by the remaining parties to this case. The Court, having considered the joint motion of the parties, the facts, the record, the plan as presented in the Motion and the history of cooperation of the parties, does hereby

**Find as facts:**

In 1964, two sets of parents with students in the Indian River County public school system filed suit stating there existed in Indian River County a segregated system of public schools. This Court entered an Order Approving Plan on May 19, 1969, based on a plan put

forth by the parties. This plan called for complete desegregation of the public school system. Since the entry of the Order Approving Plan, dated May 19, 1969, the school system changed by closing three formerly all-black schools, two were permanently closed and the third was integrated according to the terms of the plan. One of the terms of the plan specified that there would only be one school providing all the children of Indian River County with a sixth (6th) grade education. That first sixth (6th) grade school was located in the middle of Indian River County and was called Gifford Middle Six.

In the late 1970's a second sixth (6th) grade was established in a new school, Sebastian River Middle Junior High School. This school started out serving the growing but less populated northern part of Indian River County. Where the former plan had provided for all students in Indian River County to attend the 6th grade at Gifford Middle Six, the new school allowed North county residents to attend the sixth (6th) grade at Sebastian River Middle Junior High School. No modification was sought to amend the 1969 Order Approving Plan and no objection was raised in the public meetings of the School Board to the second sixth (6th) grade being established.

In the late 1980's the School Board adopted a reorganization plan for the establishment of a "middle school system" to replace the elementary schools (K-5), sixth grade school, seventh grade school, junior high school (8 & 9) and high school system. The middle school system would operate elementary schools (K-5), middle schools (6-8) and high schools (9-12). This plan has been debated, negotiated and agreed upon by the parties, with certain conditions. The conditions center around maintaining a racial balance of students, teachers and noninstructional employees throughout the school system, at each school site and in proportion to the number of minorities in the county wide population.

Through a series of meetings spanning 1990-1993, pursuant to this Court's direction, the parties have met and reached an agreement which they are now requesting this Court to review and approve. The parties have acknowledged that during the span of approximately thirty (30) years since the entry of this Court's last order approving the 1969 plan, schools have come and gone and the student population of Indian River County has risen from 8,500 to almost 13,000. Under current conditions, the 1969 plan makes it difficult for the School Board to maintain an educationally sound program for all student. Therefore, the aforesaid changes are necessary to foster an effective operation of this School District.

This Court does therefore

**Order and Adjudge** that the following plan of organization of the School District of Indian River County, Florida is approved.

The School Board middle school system reorganization plan and update of minority achievement plan shall be implemented as set forth below and any modification of the following be discussed by the parties and the results of those discussions be forwarded to this Court for further action.

### I. Facilities Reorganization

- \* The School Board may officially close **Gifford Middle 6** in June of 1995 as a sixth grade center. The School Board is currently working on a list of future uses for that building. All faculty and staff will be reassigned.
- \* The School Board may officially close **Gifford Middle 7** as a seventh grade center in June of 1995 and reopen it as **Gifford Middle Magnet**, grades 6, 7, and 8 in August of 1995.
- \* The School Board may officially rename **Vero Beach Junior High** to **Vero Beach Middle**, grades 6, 7, and 8 in August of 1995.
- \* The School Board may officially rename **Sebastian River Middle/Junior High School** to **Sebastian River Middle School**, grades 6, 7, and 8. All 9th grade students will be reassigned to the new high school.
- \* The school district will open the new **South County Middle School** with 6, 7 and 8 grades in August of 1995.
- \* The school district will open the new **Sebastian River High School** with grades 9, 10 and 11 in August of 1994. Grade 12 will be added in 1995-1996.
- \* The School Board will move the 9th graders from **Vero Beach Junior High** to **Vero Beach High School** in August of 1995.

These recommendations are subject to be delayed or modified if the building program is delayed and/or modified and if the over-crowding at **Vero Beach Senior High** cannot be

addressed by another option.

## **II. Minority Teacher Ratio**

A significant effort will be made to bring the ratio of minority teachers in the teaching population in line with the ratio of minority students in the student population. A "significant effort" will be defined as a range of 20% to 40% per annum of all new hires and replacement teachers employed during the next three years and beyond until the proper ratio has been achieved. Should the agreed yearly range not be met, the district will document by November 1st of each year the number of letters of intent offered and refused. The parties agree that all teachers to be hired must be qualified, and the district will ensure that qualifications requirements are applied uniformly and publicized with respect to both minority and non-minority applicants.

## **III. Minority Teacher Recruitment/Employment**

The School District will utilize all possible/appropriate strategies in attempting to employ minority teachers. Those strategies include, but are not limited to:

1. Using staff and lay citizens to facilitate recruiting;
2. Visiting colleges/universities/career fairs to recruit potential minority teachers;
3. Having potential minority teaching candidates visit Indian River County;
4. Designating a staff member or consultant to visit colleges of education in the region to interview and offer letter of intent;
5. Having the local businesses and banks assist with moving expenses and start up costs;
6. Working with the teachers' union to facilitate the employment of these and other critical shortage area faculty; and
7. Utilizing current Indian River County hiring practices of application, structured interviewing by individuals in the district office, and interviewing by building

principals and/or members of the School Improvement Teams. When these hiring practices fail to produce appropriate minority staffing results, the Superintendent will take the necessary steps to achieve compliance. This Recruitment/Employment plan shall not alter the School Board's authority, pursuant to Section 230.23, Fla.Stats., including the authority to designate positions to be filled, prescribe qualifications for those positions, and provide for the appointment, compensation, promotion, suspension, and dismissal of employees nor shall it alter the Superintendent's authority under Section 230.33, Fla.Stats. including those duties of recommending employment positions to be filled and persons to fill those positions. The Superintendent retains final approval for hiring all employees.

#### **IV. Minority Faculty/Staff Assignment by School**

The School District of Indian River County acknowledges that some schools do not have minority teachers on staff. The School District agrees that every school will have minority representation on the instructional or administrative staff by November 1, 1994. This representation will not be achieved by shifting minority teachers among the staff unless no positions are being added to one of these schools. The School Board will attempt to encourage and place more minorities in "higher level" non-instructional positions, such as supervisor, administrative secretary, etc. The School Board will also work to provide additional minority representation on the coaching staff in the school district.

#### **V. Future Schools in the Gifford Community**

A substantial building renovation program of approximately five million dollars is planned at Middle Seven (formerly Gifford Middle High School). It is intended to utilize that facility as a sixth, seventh, and eighth grade middle school with a special magnet instructional program. The NAACP shall select a representative to attend all future facility/construction planning sessions associated with the renovation.

The current Gifford Middle Six will be closed as a sixth grade center. Its anticipated future operation, while currently in planning stages, has centered around the following scenarios including, but not limited to, one or more of the following:

1. A pre-school facility providing low-cost child care and pre-school academic instruction.
2. An elementary magnet school with a specific curriculum; possible a school of the

- performing arts or a math and science magnet school.
3. An adult education center providing a more expanded adult education program.
  4. A specialized vocational center providing training in fields like technology, cosmetology, and nursing.
  5. A community youth center providing recreational and counseling opportunities for the young people in the community.
  6. Early intervention classes for three and four year old (Pre K site)
  7. Adult Literacy (GED)
  8. Parent Education
  9. After School Enrichment
  10. Senior Center
  11. Recreation Center (Family)
  12. Social Services Agencies (satellite site)
  13. Computing Center
  14. Library (satellite)
  15. Career Development Center
  16. Extension Center
  17. Medical Services (Well-child Clinic)
  18. DARE office or COPE office

The above list of options is open for discussion. The school district has no intention of abandoning the Gifford Middle Six facility. Whatever scenario is selected will have to generate a revenue stream to assist with utilities and other operational expenses of the building.

#### **VI. Minority Student Achievement/Resource Allocation**

A meaningful multicultural achievement plan will be implemented and monitored so that the academic achievement of minority students in Indian River County is improved. The plan will be presented to the School Board no later than January of 1994. The district will closely monitor students assigned to ESE and Alternative Education.

In cases where these numbers exceed state and district averages, a plan of action will be developed in consultation with the NAACP for immediate intervention.

#### **VII. Student Assignments**

The district will continue the practice of curricular and programmatic choice in assigning students who may reside outside an attendance area of school on a space available basis. This will allow all students to take advantage of special programs. The percentage of minority students assigned to individual schools should be consistent with the percentage of minority students represented in the school district. At the present time there are 17.8% minority students in the school system.

The School District will allocate student populations at each school in proportion to the percentage distribution of minority students system-wide within a range of plus or minus 9%. The School District needs to keep this percentage range wide enough to satisfy natural fluctuation. The Parties feel 9%-27% will eliminate additional extensive transportation of students.

#### **VIII. Plan Supervision**

The School District will continue under this Revised Order Approving Plan while the plan is implemented. This will maintain an avenue for dealing with problems should any occur in the process of implementation. This Revised Order Approving Plan will continue in effect until further Court Order. This case will remain open; the parties agree there has not yet been a determination of unitary status and the Court shall retain jurisdiction of this case.

#### **IX. Transportation**

There are no requirements for any change to the current transportation system.

#### **X. Extra-Curricular**

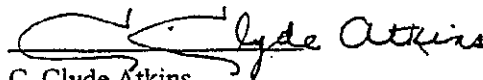
There are no requirements for change to the current extra-curricular structure.

#### **XI. Changes and Disputes**

The Parties agree that changes to this plan may be made in writing and upon mutual

agreement. The Parties agree to continue to work together to provide for the changing student and adult populations of Indian River County. If either Party feels there is a need to meet on any issue relating to this or any subsequent plan for desegregation, they shall notify the other and make arrangements through their appropriate officers to meet and discuss the issues prior to the need for Court action. If there is a dispute over any issues relating to desegregation, be it an issue covered in this plan or one not covered, every effort shall be made to handle those issues between the Parties without the necessity for Court action. Mediation methods and techniques shall be employed where meetings between the parties are unsuccessful. The Parties to this case and their successors have enjoyed a long relationship of cooperation through negotiation and settlement of their disputes by agreement. It is the intent of this plan to continue that relationship through a commitment to meetings and negotiation rather than litigation.

DONE AND ORDERED this 23<sup>rd</sup> day of May, 1994 in Miami, Florida.

  
C. Clyde Atkins  
United States District Judge

cc: G. Russell Petersen, Esq.  
Norman J. Chachkin, Esq.