

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

JOHN F. KNIGHT, JR., et al.,)

Plaintiffs/Plaintiff Intervenors,)

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

THE STATE OF ALABAMA, et al.,)

Defendants.)

**CIVIL ACTION NO.
CV-83-M-1676-S**

**JOINT BRIEF OF DEFENDANT PWIS IN OPPOSITION TO
KNIGHT-SIMS PLAINTIFFS' MOTION TO MODIFY OR AMEND
THE REMEDIAL DECREE TO SPECIFY COMPLIANCE WITH
PROVISIONS REQUIRING DESEGREGATION OF HWI
FACULTIES AND ADMINISTRATIONS**

ARGUMENT

Come now the following Defendant institutions and file this Joint Brief in Opposition to the Knight-Sims Plaintiffs' Motion to Modify or Amend the Remedial Decree to Specify Compliance with Provisions Requiring Desegregation of HWI Faculties and Administrations: The Board of Trustees of the University of Alabama, Auburn University, Troy State University System, The University of Montevallo, The University of West Alabama, The University of North Alabama,

University of South Alabama, Jacksonville State University, and Athens State College (the “Predominately White Institutions” or “PWIs”).¹ This Court should deny the Knight Plaintiffs’ August 22, 2003, Motion to Modify or Amend the Remedial Decree to authorize the advisory committees to develop “clear numerical goals and timetables for achieving a critical mass of African Americans on [Defendants’] faculties and administrations” (Pls.’ Mot. to Modify at 31) because: (1) it relies on inapplicable legal standards that have been rejected by this Court and the Supreme Court; (2) it ignores the real progress made by the PWIs; and (3) it is premature in light of the limited time for implementation of this Court’s April 3, 2002, Order establishing advisory committees for African-American employment at all PWIs. The Knight Plaintiffs have simply recycled old “critical mass” and employment discrimination arguments that this Court considered and rejected in reaching the conclusions in its 1991 Opinion and Remedial Decree and in its April 3, 2002, Order, and they have done so before that Order has had reasonable time to work.

The Knight Plaintiffs’ “critical mass” concept and “numeric goals and timetables” remedy is not supported by, and is in fact rejected by, the constitutional analysis in *Grutter v. Bollinger*, 123 S. Ct. 2325 (2003). *Grutter* employed strict

¹ While this Brief in Opposition is filed jointly, if the Court desires any specific information about a particular PWI, that institution will promptly provide it at the Court’s request.

scrutiny analysis to determine whether a voluntary race-based benefit to minority law school applicants served a compelling interest and was sufficiently narrowly tailored to not unduly harm majority white applicants. In contrast, this case is governed by the distinct analysis set forth in *United States v. Fordice*, 505 U.S. 717 (1992), for determining whether the “policies and practices” of the PWIs have sufficiently eliminated vestiges of *de jure* segregation that unduly harm minority African-American students. Further, pursuant to the letter and spirit of this Court’s 1991 Remedial Decree, the PWIs have made substantial progress in hiring African-American faculty and administrators, recording an increase of 72 percent from 1991 to 2002. Moreover, while the PWIs implemented the advisory committee process after this Court’s April 3, 2002, Order, there has not been sufficient experience with this policy to measure its effectiveness. Accordingly, it is premature to authorize the drastic relief of directing the advisory committees to develop specific numbers and specific dates for African-American hiring for this Court to impose upon the PWIs.

I. The *Fordice* Standard Governs this Case: Policies and Practices.

Whether to modify the 1991 Remedial Decree depends, in the first instance, upon the provisions of that decree in light of the subsequent binding Supreme Court precedent of *Fordice*. The Remedial Decree and the subsequent *Fordice* case did not focus on individual employment grievances or hard numeric

mandates, but on the good faith implementation of “policies and practices” for eliminating any remaining vestiges of the long-abandoned *de jure* segregation policy.

A. **This Court’s 1991 Remedial Decree Properly Focused on Employment Practices.**

In its 1991 Opinion, this Court recognized the basic distinction between an action to eliminate the vestiges of *de jure* segregation and an action to eliminate ongoing employment discrimination against faculty members and administrators. “The beneficiaries of the Equal Protection Clause of the Fourteenth Amendment are the *students . . .*” and the duty of “the state and its institutions is to eliminate root and branch, to the extent practical, the vestiges of segregation which continue to have an impermissible impact on the exercise of *student choice.*” *Knight v. Alabama*, 787 F.Supp. 1030, 1360 (N.D. Ala. 1991) (emphases added), *aff’d in part, rev’d on other grounds in part, vacated on other grounds in part*, 14 F.3d 1534 (11th Cir. 1994).

In response to the Knight Plaintiffs’ contentions regarding specific employment decisions, this Court plainly and correctly stated: “Suffice it to say that this lawsuit is *not about employment discrimination* but about desegregation.” *Knight*, 787 F. Supp. at 1192 (emphasis added). This Court also correctly declined to force the PWIs to abandon the educationally sound practices of hiring terminal degree faculty and hiring doctoral graduates from other institutions. *Id.* at 1188 –

89. Further, although an expert, who testified in support of the Knight Plaintiffs' position, opined that the attainment of a "critical mass" of African-American faculty members and administrators should be the measure of when the vestiges of *de jure* segregation have been removed, *id.* at 1344-45, the Court declined to adopt such a standard. Instead, in fashioning the 1991 Remedial Decree to deal broadly with student enrollment, facilities, funding, and faculty and administrators at Alabama's PWIs, this Court focused on "practices" and "procedures" with respect to faculty and administration employment. *Id.* at 1187.

B. This Court Has Already Rejected the Arguments in the Knight Plaintiffs' Motion.

In their September 17, 1998, motion, the Knight Plaintiffs requested orders "to remove the vestiges of *de jure* segregation reflected in the continuing absence of 'critical masses' of black members of [the PWIs'] faculties and administrations." (Pls.' Mot. for Enforcement of 1991 Remedial Decree at 1 (Sept. 17, 1998).) The Knight Plaintiffs complained that although the PWIs had made progress in faculty and administrative employment, such progress was insufficient because certain positions were not filled by African Americans and the specifically sought-after goal of "critical masses" had not been reached. *Id.* at 14, 26.

Consistent with its 1991 decision not to eliminate certain employment criteria, not to adopt "critical mass" as a standard, and not to evaluate specific employment decisions, this Court's April 3, 2002, Order declined to require the

PWIs to hire African Americans for specific positions and declined to adopt “critical mass” as the standard for measuring elimination of the vestiges of *de jure* segregation. Instead, the Court maintained its focus on employment policies and practices by creating the advisory committee process to make recommendations regarding policies and practices and by providing state funding for the PWIs’ respective African-American hiring and retention efforts. (Order at 2, 3 (April 3, 2002).)

C. The Supreme Court’s Standard for Higher Education *De Jure* Segregation Cases is Not “Critical Mass”.

The year after this Court issued its 1991 Opinion, the Supreme Court set forth the controlling standard for eliminating remaining vestiges of *de jure* segregation in university and college systems:

If the State perpetuates *policies and practices* traceable to its prior system that continue to have segregative effects – whether by influencing student enrollment decisions or by fostering segregation in other facets of the university system – and such policies are without sound educational justification and can be practicably eliminated, the State has not satisfied its burden of proving that it has dismantled its prior system.

Fordice, 505 U.S. at 731 (emphasis added). With respect to how faculty and administrative employment policies and practices impact student choice, the Supreme Court further explained:

To the extent we understand private petitioners to urge us to focus on present discriminatory effects without addressing whether such consequences flow from policies rooted in the prior system, *we reject*

this position. Private petitioners contend that the State must not only cease its legally authorized discrimination, it must also “eliminate its continuing effects insofar as practicable.” . . . Though they seem to disavow as radical a remedy as student reassignment in the university setting . . . , their focus on “student enrollment, *faculty and staff employment patterns*, [and] black citizens’ college-going and degree-granting rates” . . . , would seemingly compel remedies akin to those upheld in *Green v. School Bd. of New Kent County*, 391 U.S. 430 . . . (1968), were we to adopt their legal standard. . . . [T]he inappropriateness of remedies adopted in *Green* [e.g., faculty and staff desegregation] by no means suggests . . . that the State need not take additional steps

Fordice, 505 U.S. at 730 n.4 (emphases added). On appeal of this Court’s 1991 judgment, the Eleventh Circuit applied *Fordice* to this case. See *Knight*, 14 F.3d at 1540 – 41.

Thus, the proper measure of progress in a *de jure* desegregation case for universities and colleges is the good faith actions of the institutions in revising and implementing employment “policies and practices” in light of the limited pool of applicants and the number of applicants available to be hired each year.²

² Even in employment discrimination cases, which this case is not, the courts consider the limitations imposed by the relevant applicant pool and the flow of applicants available to hire. See, e.g., *EEOC v. Joe's Stone Crab, Inc.*, 220 F.3d 1263, 1271 (11th Cir. 2000) (using “applicant flow data” and “applicant pool” terminology in disparate impact case).

II. The Knight Plaintiffs Fail in Fact and Law to Justify a Modification of the Remedial Decree.

The Eleventh Circuit has explained:

Modification [of an injunction] may be considered when (1) a significant change in facts or law warrants change and the proposed modification is suitably tailored to the change, (2) significant time has passed and the objectives of the original agreement have not been met, (3) continuance is no longer warranted, or (4) a continuation would be inequitable and each side has legitimate interests to be considered.

Jacksonville Branch NAACP v. Duval County School Board, 978 F.2d 1574 (11th Cir. 1992).

The second factor – “significant time has passed and the objectives of the original agreement have not been met” – means that an “injunction may be modified to impose more stringent requirements on the defendant when ‘the original purposes of the injunction are *not being fulfilled in any material respect.*’” *Sizzler Family Steak Houses v. Western Sizzlin Steak House, Inc.*, 793 F. 2d 1529, 1539 (11th Cir. 1986) (quoting *Exxon Corp. v. Texas Motor Exchange*, 628 F.2d 500, 503 (5th Cir. 1980) (quoting 11 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2961 (1973)) (emphasis added).

A. The PWIs Have Made Significant Progress.

As this Court recognized, by 1991, the PWIs had “gone well beyond their nondiscriminatory admissions policies,” had eliminated “illegitimate barriers to black employment,” and had adopted “minority employment procedures.” *Knight*,

787 F.Supp. at 1360, 1187. Nonetheless, for certain PWIs , the Court ordered the “review of . . . practices and policies respecting the recruitment and employment of African-American faculty,” the “augment[ation of] those practices and polices,” and “appl[ication] . . . with renewed diligence and financial resources to see that a genuine effort exists to increase the number of black faculty [and administrators].” *Id.* at 1378. This Court further ordered annual reporting by the universities and colleges on their progress in African-American faculty and administrative recruitment, retention, etc. *Id.* at 1380 – 81.

Since the issuance of the 1991 Remedial Decree, the respective PWIs have reviewed and revised their policies, diligently applied those policies, have successfully recruited and hired African-American faculty members and administrators, and have reported their progress to the Court each year. This progress has been substantial:

**Increase in African-American
Full-Time Faculty and Executive, Administrative,
and Managerial Positions at PWIs**

<u>Year</u>	<u>No. A-A</u>	<u>Total</u>	<u>Percentage</u>
1991	228	7,099	3.2%
2002	393	7,511	5.2%
Percentage Change	+ 72.4%	+ 5.8%	

Source: Attachment A (Exhibit 1 to Joint Objection of Defendant PWIs to Knight Plaintiffs' Discovery Request Regarding Compliance with April 3, 2002 Order).

Thus, the PWIs have vigorously implemented policies and practices that have increased African-American employment by 72% during a period when overall employment increased by only 6%. These increases have been made despite limited growth in state funding and despite the very small applicable pool of African-American Ph.D. graduates that this Court recognized was a limiting factor when the 1991 Remedial Decree issued. *See Knight*, 787 F.Supp. at 1188 – 89 (noting that only 964, or 2.8%, of all doctorates awarded in America during the 1988-89 school year went to black graduate students); *National Research Center, Doctorate Recipients from United States Universities: Summary Report 2001* App. Table B-2a at p. 105 (stating that only 1,604, or 3.94%, of all doctorates awarded in America during 2001 went to African-Americans), available at <http://www.norc.uchicago.edu/issues/sed-2001.pdf>. Instead of defiance or failure to comply with the letter and spirit of this Court's 1991 Remedial Decree, the facts demonstrate good faith compliance and real progress.

The PWIs' good faith administration of their employment policies and practices is relevant to the analysis for eliminating the vestiges of *de jure* discrimination to the extent it impacts student choice. *Knight*, 787 F.Supp. at 1360. As the following chart demonstrates, African-American students have been

exercising their freedom of choice to attend PWIs in substantially increasing numbers since 1991:

**Increase in African-American
Student Enrollment at PWIs**

<u>Year</u>	<u>No. A-A</u>	<u>Total</u>	<u>Percentage</u>
1991	13,866	125,649	11.0%
2002	22,033	126,007	17.5%
Percentage Change	+58.9%	+2.8 %	

Source: Attachment B (Updated National Racial Composition Data Filed by the Board of Trustees of the University of Alabama, Appendix Q p. 1 (updated for 2002 data)).

Thus, the PWIs have substantially increased African-American student enrollment by 59% during a period when overall student enrollment increased by only 3%. Instead of defiance of or failure to comply with the letter and spirit of this Court's 1991 Remedial Decree, the facts demonstrate good faith compliance and real progress.³

³ Rather than belabor statistics at this time, the PWIs defer such factual discussions until the Court entertains arguments and submissions regarding the scheduled termination of the Remedial Decree in 2005.

B. The Knight Plaintiffs' Arguments For Modification Fail on Their Face.

Nonetheless, the Knight Plaintiffs have filed another motion, again complaining that progress has been insufficient, again arguing that “critical mass” should be the measure for this *de jure* segregation case, and again asserting that certain positions have not been filled by African Americans. (Pls.’ Mot. to Modify at p. 10, 14, 22.) The arguments in this Motion differ only in that they now mistakenly rely on the Supreme Court’s intervening decision in *Grutter v. Bollinger*.

1. Grutter v. Bollinger is Inapplicable to Cases Addressing the Historic Effects of De Jure Segregation.

First, the Knight Plaintiffs’ use of the term “critical mass” (Pls.’ Mot. to Modify at 10, 31) to shift this Court’s focus from whether “policies and practices” continue to be traceable to vestiges of *de jure* segregation to whether the Court should mandate specific numbers and dates of hiring criteria, fails on its face. “Critical mass” is a concept offered by a litigant in *Grutter v. Bollinger*, 123 S. Ct. 2325, 2333-34, 2341-42 (2003), to justify a voluntary race-based classification that served a compelling state interest in diversity in a manner narrowly tailored to avoid undue discrimination against majority white applicants to the state law school. In this case, we do not address the ceiling on voluntary action that the Equal Protection Clause may allow without unduly harming majority white

students, but the floor for mandatory action that the Equal Protection Clause does require for the protection of minority African-American students. The constitutional test for eliminating the vestiges of *de jure* segregation is not one of whether a voluntary policy is sufficiently narrow and compelling, *see Grutter*, 123 S. Ct. at 2337-38, but whether the State's "policies and practices" continue to be "traceable to its prior system" of *de jure* segregation, "have segregative effects,"⁴ are "without sound educational justification[,] and can be practicably eliminated," *Fordice*, 505 U.S. at 731.

Further, in *Grutter*, 123 S. Ct. at 2334, the chairman of the law school committee who drafted the voluntary race-based admissions policy that the law school used to seek a "critical mass" of certain minority students, admitted that the policy "did not purport to remedy past discrimination." And the Supreme Court, in adopting Justice Powell's *Bakke* test for voluntary race-based initiatives stated: "Justice Powell *rejected* an interest in 'reducing the historic deficit of traditionally disfavored minorities in medical schools and in the medical profession' as an unlawful interest in racial balancing." *Id.* at 2336 (emphasis added) (quoting

⁴ This Court explained in its 1995 opinion that "[a] 'segregative effect' occurs when a policy or practice continues to foster segregation, or influences student enrollment decisions by *substantially restricting*, in a discriminatory manner, a person's choice of which institution to enter." *Knight v. Alabama*, 900 F. Supp. 272, 284 (N.D. Ala. 1995) (emphasis added) (citing *Fordice*, 505 U.S. at 730). The 59% increase in African-American student enrollment at the PWIs since 1991, *see chart supra* at 11, undercuts any argument that the PWIs are "substantially restricting" student choice.

Regents of University of California v. Bakke, 438 U.S. 265, 306-07 (1978) (one set of quotations and citation omitted).

Moreover, even under the analysis for assessing the maximum allowable race-based benefit to a minority, the Supreme Court in *Grutter* rejected the “clear numeric goals and timetables” that the Knight Plaintiffs seek as a patent violation of the Equal Protection Clause. (Pls.’ Mot. to Modify at 31.) The Supreme Court stated:

To be narrowly tailored, a race-conscious admissions program cannot use a quota system – it cannot “insulat[e] each category of applicants with certain desired qualifications from competition with all other applicants.” . . .

. . . Properly understood, a “quota” is a program in which a certain *fixed number* or proportion of opportunities are “reserved exclusively for certain minority groups.”

Grutter, 123 S. Ct. at 2342 (emphasis added) (citations omitted).

Similarly, in *Grutter*’s companion case, the Court struck down a rigid numeric, race-based formula that automatically preferred applicants of certain minority groups for undergraduate admission. *See Gratz v. Bollinger*, 123 S.Ct. 2411, 2428-30 (2003). Thus, the Knight Plaintiffs’ attempt to have the PWIs’ advisory committees develop hard numeric goals and timetables to be enforced by this Court fails under the very analysis upon which they rely for such a remedy even if such analysis was applicable to a *de jure* desegregation case, which it is not.

2. Allegations of Employment Discrimination are Irrelevant.

Second, specific employment decisions (Pls.' Mot. to Modify at 14), are matters governed by employment discrimination law and are thus beyond the scope of this case. As this Court stated in 1991, "[s]uffice it to say that this lawsuit is not about employment discrimination but about desegregation." *Knight*, 787 F. Supp. at 1192. Moreover, as this Court further stated in its April 2002, Order that "employment and retention decisions for individual faculty or staff positions are not within the purview of the [advisory] committee." (Order ¶ 5.B. (Apr. 3, 2002).)

3. Action Beyond this Court's April 2002 Order is Premature.

Third, the revised and invigorated minority hiring practices and procedures implemented pursuant to this Court's 1991 Remedial Decree have produced significant results. The additional procedures implemented by this Court's April 2002 Order should accelerate gains in African-American faculty and administrative employment. Those procedures are just beginning to be funded and utilized.⁵ Accordingly, the Court should wait and see what effect those procedures have before even considering mandating further measures. *See, e.g., United States v. Georgia, Meriwether County*, 171 F.3d 1333, 1341-42 (11th Cir. 1999) (affirming

⁵ The first installment of funds, \$1,471,316, was paid on November 26, 2002, and the balance of \$1,528,684 was paid on July 16, 2003. *See* Statewide Monitoring Committee Annual Report, Attachment 12 p.1 (filed June 19, 2003); Attachment C (listing State vouchers to PWIs).

district court's rejection of minority plaintiffs' challenge to faculty assignments that would arise from building a new high school under desegregation consent decree where faculty assignments had yet to be carried out and "the more prudent approach is to *wait and see* what changes are actually made and then decide whether those changes were improper") (emphasis added) (internal quotations and citation omitted).

The PWIs have complied in good faith with the letter and spirit of the 1991 Remedial Decree and are committed to compliance with the applicable constitutional principles in providing a quality education to all the students of Alabama -- "perhaps the most important function of state . . . government[]." *Brown v. Board of Educ.*, 347 U.S. 483, 493 (1954).

CONCLUSION

For the foregoing reasons, the Knight Plaintiffs' Motion to Modify or Amend this Court's Remedial Decree should be denied.

Respectfully submitted,

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I hereby certify that a copy of the foregoing has been served upon the following by first class United States mail, properly addressed and postage prepaid, on this the 15th day of October, 2003:

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ATTACHMENT A

DESEGREGATION PROGRESS IN ALABAMA BETWEEN 1991 AND 2002

TOTAL FULL-TIME FACULTY AND EXECUTIVE, ADMINISTRATIVE AND MANAGERIAL BY RACE, BY INSTITUTION
Change Between 1991-2002

Institution	FALL 1991			FALL 2002			11-YEAR CHANGE				
	Total EEO-1 & EEO-2	Black EEO-1 & EEO-2	% Black EEO-1 & EEO-2	Total EEO-1 & EEO-2	Black EEO-1 & EEO-2	% Black EEO-1 & EEO-2	Change in # Total EEO-1 & EEO-2	Change in # Black EEO-1 & EEO-2	% Increase/Decrease in Total EEO-1 & EEO-2	% Increase/Decrease in Black EEO-1 & EEO-2	Difference in % Black EEO-1 & EEO-2
ASC	72	4	5.6%	79	7	8.9%	7	3	9.7%	75.0%	3.3
AU	1,477	28	1.9%	1,421	58	4.1%	-56	30	-3.8%	107.1%	2.2
AUM	254	12	4.7%	236	10	4.2%	-18	-2	-7.1%	-16.7%	-0.5
JSU	320	10	3.1%	336	18	5.4%	16	8	5.0%	80.0%	2.2
TSU	191	8	4.2%	266	23	8.6%	75	15	39.3%	187.5%	4.5
TSUD	50	0	0.0%	71	3	4.2%	21	3	42.0%	N/A	4.2
TSTM	52	2	3.8%	58	11	19.0%	6	9	11.5%	450.0%	15.1
UA	1,042	27	2.6%	994	49	4.9%	-48	22	-4.6%	81.5%	2.3
UAB	1,741	60	3.4%	2,100	106	5.0%	359	46	20.6%	76.7%	1.6
UAH	338	8	2.4%	344	15	4.4%	6	7	1.8%	87.5%	2.0
UM	164	3	1.8%	155	5	3.2%	-9	2	-5.5%	66.7%	1.4
UNA	214	9	4.2%	241	12	5.0%	27	3	12.6%	33.3%	0.8
USA	916	32	3.5%	928	41	4.4%	12	9	1.3%	28.1%	0.9
UWA	115	6	5.2%	125	5	4.0%	10	-1	8.7%	-16.7%	-1.2
CSCC	153	19	12.4%	157	30	19.1%	4	11	2.6%	57.9%	6.7
Total PWIs	7,099	228	3.2%	7,511	393	5.2%	412	165	5.8%	72.4%	2.0
A&M	330	193	58.5%	330	180	54.5%	0	-13	0.0%	-6.7%	-3.9
ASU	222	147	66.2%	276	174	63.0%	54	27	24.3%	18.4%	-3.2
Total HBCLUs	552	340	61.6%	606	354	58.4%	54	14	9.8%	4.1%	-3.2

Source: 2003 State Annual Report, Attachments 5-8

ATTACHMENT B

DESEGREGATION PROGRESS IN ALABAMA BETWEEN 1991 AND 2002

TOTAL STUDENT ENROLLMENT BY RACE, BY INSTITUTION

Change Between 1991-2002

Institution	FALL 1991			FALL 2002			Change in # Total Enrollment	Change in # Black Enrollment	11-YEAR CHANGE		
	Total Enrollment	Black Enrollment	% Black Enrollment	Total Enrollment	Black Enrollment	% Black Enrollment			% Increase/Decrease in Total Enrollment	% Increase/Decrease in Black Enrollment	Difference in % Black Enrollment
ASC	3,017	169	5.6%	2,528	279	11.0%	-489	110	-16.2%	65.1%	5.4
AU	21,833	1,010	4.6%	23,276	1,641	7.1%	1,443	631	6.6%	62.5%	2.4
AUM	6,575	1,128	17.2%	5,104	1,651	32.3%	-1,471	523	-22.4%	46.4%	15.2
BSU	8,240	1,397	17.0%	8,930	1,895	21.2%	690	498	8.4%	35.6%	4.3
TSU	5,482	931	17.0%	7,500	1,978	26.4%	2,018	1,047	36.8%	112.5%	9.4
TSUD	2,039	175	8.6%	1,891	347	18.4%	-148	172	-7.3%	98.3%	9.8
TSUNM	3,193	784	24.6%	3,295	1,479	44.9%	102	695	3.2%	88.6%	20.3
UA	19,797	1,890	9.5%	19,584	2,569	13.1%	-213	679	-1.1%	35.9%	3.6
UAB	15,922	2,531	15.9%	15,579	3,892	25.0%	-343	1,361	-2.2%	53.8%	9.1
UAH	8,624	469	5.4%	7,045	835	11.9%	-1,579	366	-18.3%	78.0%	6.4
UM	3,256	249	7.6%	2,935	375	12.8%	-321	126	-9.9%	50.6%	5.1
UNA	5,735	444	7.7%	5,416	579	10.7%	-319	135	-5.9%	30.4%	3.0
UPWA	11,990	1,210	10.2%	12,323	2,086	16.9%	333	866	2.8%	71.0%	6.8
USC	2,986	638	21.4%	2,902	865	29.8%	-84	227	-4.0%	35.6%	12.6
USCC	7,840	831	10.6%	8,599	1,562	18.2%	759	731	9.7%	88.0%	7.6
Total PWJ's	125,649	13,866	11.0%	126,007	22,033	17.5%	358	8,167	0.3%	58.9%	6.5
A&M	5,215	4,108	78.77%	5,914	5,048	85.4%	699	940	13.40%	22.88%	6.6
ASU	4,822	4,733	98.15%	6,038	5,494	91.0%	1,216	761	25.22%	16.08%	-7.2
Total HBCL's	10,037	8,841	88.08%	11,952	10,542	88.2%	1,915	1,701	19.08%	19.24%	0.1

Source: 2003 State Annual Report, Attachments 3 & 4

TOTAL STUDENT ENROLLMENT BY RACE, STATEWIDE

Change Between 1991-2002

Institution	FALL 1991			FALL 2002			Change in # Total Enrollment	Change in # Black Enrollment	11-YEAR CHANGE		
	Total Enrollment	Black Enrollment	% Black Enrollment	Total Enrollment	Black Enrollment	% Black Enrollment			% Increase/Decrease in Total Enrollment	% Increase/Decrease in Black Enrollment	Difference in % Black Enrollment
Total St. PWJ's	117,809	13,035	11.1%	117,408	20,471	17.4%	(401)	7,436	-0.3%	57.0%	6.4
Total HBCL's	10,037	8,841	88.1%	11,952	10,542	88.2%	1,915	1,701	19.1%	19.2%	0.1
Total St. Incl.	127,846	21,876	17.1%	129,360	31,013	24.0%	1,514	9,137	1.2%	41.8%	6.9
Total UAS	44,343	4,890	11.0%	42,208	7296	17.3%	(2,135)	2,406	-4.8%	49.2%	6.3

Source: 2003 State Annual Report, Attachments 3 & 4

ATTACHMENT C

July 16, 2003 Payments to PWIs Pursuant to Court's August 3, 2002 Order

<u>PWI</u>	<u>Amount</u>
Athens State	\$ 50,956
Auburn University	244,702
AUM	71,027
Jacksonville State Univ.	81,087
Troy State Univ.	50,956
Troy State (Dothan)	57,143
Troy State (Montgomery)	50,956
University of Alabama	177,334
UAB	274,921
UAH	89,613
University of Montevallo	66,812
Univ. of North Alabama	73,398
Univ. of South Alabama	137,867
Univ. of West Alabama	50,956
Calhoun Community College	<u>50,956</u>
Total	<u>\$1,528,684</u>

Source: Vouchers from State of Alabama.