

August 16, 1955

The Board of Trustees, Arkansas State Teachers College, met in the President's office, Arkansas State Teachers College, Conway, Arkansas, Tuesday, August 16, 1955, pursuant to legal call of the meeting by the Chairman. The following members were present: James H. Flanagin, Chairman; Mrs. Rufus W. Morgan, Jr., Secretary; Harry S. Ashmore; Louie H. Polk; John W. Sneed, Jr. Trustees Parham and Adkisson were absent.

President Snow met with the Board.

Chairman Flanagin directed roll call and declared a quorum present and called the meeting into formal session.

Minutes of the last meeting of the Board were approved as read.

Chairman Flanagin called for items of old or pending business and stated that the boards of trustees of the State-supported institutions of higher learning had requested an opinion from the Attorney General of the State of Arkansas on the following questions:

- (1) Does the Supreme Court decision pertaining to segregation apply to State supported institutions of higher learning?
- (2) Under the Supreme Court decision, what is the status of State laws of incorporation and other statutes restricting admission to the several institutions according to race?

The following is a statement addressed to the Presidents of the State-supported institutions of higher learning from the Attorney General of the State of Arkansas in reply to the above questions:

August 2, 1955

Hon. John T. Caldwell, President  
University of Arkansas  
Fayetteville, Arkansas

Hon. D. D. McBrien, President  
Henderson State Teachers College  
Arkadelphia, Arkansas

Dr. Carl R. Reng, President  
Arkansas State College  
Jonesboro, Arkansas

Hon. J. W. Hull, President  
Arkansas Polytechnic College  
Russellville, Arkansas

Hon. Silas D. Snow, President  
Arkansas State Teachers College  
Conway, Arkansas

Hon. Dolph Camp, President  
Southern State College  
Magnolia, Arkansas

Hon. Horace E. Thompson, President  
Arkansas Agricultural & Mechanical College  
College Heights, Arkansas

Gentlemen:

Your letter dated July 22, 1955, with regard to racial segregation in the State supported colleges and the University of Arkansas was received today. In that letter you ask:

1. Does the Supreme Court decision pertaining to segregation apply to State-supported institutions of higher learning?
2. Under the Supreme Court decision, what is the status of State laws of incorporation and other statutes restricting admission to the several institutions according to race?

I assume that you have in mind the cases reported under the style of Brown v Board of Education, 345 U.S. 972, when you refer to "The Supreme Court decision pertaining to segregation."

This case, consolidated with several others by the United States Supreme Court for argument, affected directly only certain localities in the States of Kansas, South Carolina, Virginia, Delaware and the District of Columbia.

On May 17, 1954, the United States Supreme Court changed its mind as to the law concerning the constitutionality of segregation in the public schools because of race, and specifically overruled the case of Plessy v Ferguson, 163 U.S. 537, decided by the United States Supreme Court in 1896, some 59 years ago. The United States Supreme Court ruled specifically in the Plessy case, supra. that segregation because of race in the public schools was not in violation of the United States Constitution so long as substantially equal facilities were provided for all students.

The United States Supreme Court on May 17, 1954, in a complete reversal of its former opinion stated:

"We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other 'tangible' factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does."

"We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal. . . Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment. This disposition makes unnecessary any decision whether such segregation also violates the Due Process Clause of the Fourteenth Amendment."

In addition to the foregoing, the court announced that it was withholding any order or decree until further argument could be heard from the parties concerning the wording of the decree to grant the proper relief to the parties.

Upon invitation of the United States Supreme Court, I participated in these arguments as amicus curiae. On May 31, 1955, the Court announced its decision as to the decree giving relief to the parties to that litigation, saying:

"While giving weight to these public and private considerations, the courts will require that the defendants make a prompt and reasonable start toward full compliance with our May 17, 1954, ruling. Once such a start has been made, the courts may find that additional time is necessary to carry out the ruling in an effective manner. The burden rests upon the defendants to establish that such time is necessary in the public interest and is consistent with good faith compliance at the earliest practicable date. To that end, the courts may consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a non-racial basis, and revision of local laws and regulations which may be necessary in solving the foregoing problems. They will also consider the adequacy of any plans the defendants may propose to meet these problems and to effectuate a transition to a racially nondiscriminatory school system. During this period of transition, the courts will retain jurisdiction of these cases."

In view of this, it will be seen that the decision of May 17, 1954, and the decision of May 31, 1955, directly apply only to the parties in these cases. These decisions do not apply directly to any Arkansas school board, school district, college or university, and if these decisions are not complied with in Arkansas no person would be in violation thereof, as Arkansas was not a party to these cases.



However, it is my opinion, that the United States Supreme Court, as it is presently constituted, would apply the doctrine of stare decisis if an Arkansas case came before the Court concerning segregation in the schools because of race, even though separate but equal facilities were provided and thus make the decisions of May 17, 1954, and May 31, 1955, applicable to Arkansas.

It should be noted that the Court used the term public education in its decision, and it is my opinion that the decision of the United States Supreme Court in the Brown case, supra, would be the same if the question were presented to the Court concerning a State-supported university, college, high school, grammar school or kindergarten.

With regard to your second question, I am of the opinion that the United States Supreme Court would hold such statutes as you mention in your question to be void as being in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

Your attention is invited, however, to the decision of May 31, 1955, wherein the school officials of the defendant school boards were given adequate time to comply in good faith with the decree of the Court. Should such a case concerning Arkansas be taken before the Court, I believe that Arkansas would also be given adequate time for compliance in good faith with any decree which might be entered.

Very Truly Yours  
/s/ TOM GENTRY

Trustee Ashmore made a motion, seconded by Trustee Morgan and unanimously passed by the Board that - "In compliance with the ruling of the Attorney General of Arkansas, Arkansas State Teachers College will admit any qualified applicant. The President is authorized to make such administrative arrangements as may be necessary to implement this policy."

The purchase of the new car for the President's use - authorized by the Board at the meeting on June 28, 1955 - was discussed and Trustee Ashmore agreed to contact the State Purchasing Agent about this matter.

There being no other items of old business, Chairman Flanagan called for any new business that should come before the Board at this time.

Upon the motion of Trustee Polk, seconded by Trustee Ashmore, the Board unanimously approved the following recommendations made by President Snow:

1. Request for leave of absence without pay:

- a. Miss Frances Amis, sick leave, July 1, 1955 to beginning of second semester, January 21, 1956.
- b. Eugene Nolte, graduate study, September 1, 1955 to beginning of fall semester, September 1956.
- c. C. B. Ainsworth, additional year for graduate study.

2. New staff members:

- a. Miss H. Dorothy Allen, Associate Professor and Head of the Department of Foreign Language, September 1, 1955 - salary \$416.66 per calendar month
- b. Dr. William K. Easley, Professor and Head of the Department of Physical Science, August 1, 1955 - salary for the month of August \$400.00; salary beginning September 1, 1955, \$481.25 per calendar month.

2. New staff members continued -
- c. Miss Marjorie Malin, Instructor in Biology, September 1, 1955 through May 31, 1956 - salary \$333.33 per calendar month.
  - d. Paul Witherspoon, Director of Testing and Instructor in Psychology, September 1, 1955 through June 30, 1956 - salary \$400.00 per calendar month for the ten months (Ford Funds)
  - e. Mrs. Mildred Pascoe, Instructor and Supervisor, September 1, 1955 salary \$300.00 per calendar month.
  - f. Dr. Lewis A. Dralle, Assistant Professor of History, September 1, 1955 - salary \$370.83 per calendar month.

Trustee Ashmore made a motion, seconded by Trustee Morgan and unanimously passed by the Board that the following resignations be accepted:

- a. Dr. John W. Payne, effective August 15, 1955 - to accept another position.
- b. Dr. L. E. Bradfield, effective August 15, 1955 - to accept another position.

Trustee Sneed made a motion, seconded by Trustee Polk and unanimously passed by the Board that the following salary adjustments recommended by President Snow be approved:

- a. Dr. B. A. Lewis, Professor and Head Department of Education and Graduate Studies - salary \$500.00 per calendar month, effective August 1, 1955.
- b. R. F. Selvidge, Associate Professor of Physical Science - salary \$372.00 per calendar month, effective August 1, 1955.
- c. Glenn Powers, Assistant Professor of Physical Science - salary \$372.00 per calendar month, effective August 1, 1955.
- d. T. J. Burgess, Instructor of Biology - salary \$317.00 per calendar month, effective August 1, 1955.
- e. Mrs. V. N. Hukill, Cashier, business office - salary \$200.00 per calendar month, effective July 1, 1955.
- f. N. V. Wimberly, Supervisor of Buildings and Grounds - salary \$300.00 per calendar month, effective July 1, 1955.
- g. Dr. L. E. Bradfield, Associate Professor of Education and Director of Training School - salary \$408.33 per calendar month for the month of July 1955 and half of August 1955.
- h. Miss Mabel Grey Patterson, Assistant Professor of Education salary \$324.83 per calendar month, effective September 1, 1955.

Trial balance for the period ending June 30, 1955 was presented to the Board.

There being no further business, the Board adjourned until legally called into session again.

*Mrs. Rufus W. Morgan, Jr.*  
Mrs. Rufus W. Morgan, Jr  
Secretary

*James H. Flanagan*  
James H. Flanagan, Chairman