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Desegregation case may go back to court

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Alabama's 24-year-old higher education desegregation case appears headed for another round in federal court.

Another trial seems likely because the parties to the case have been unable to reach an agreement to end it.

"The obstacles to an agreement are just too great to overcome at this time," the case's monitor, Carlos Gonzalez, wrote last week to the presiding U.S. district judge, Harold Murphy of Rome, Ga.

Murphy issued an order Monday giving the parties until Nov. 30 to file objections to the end of the two massive remedial decrees he has issued in the case. Any responses to those objections are due Jan. 6.

Asked what these developments meant, Birmingham attorney Robert Hunter, who represents the state in the case, said, "It means we're going to have a trial, and I do not look forward to it."

Jim Blacksher, who filed the suit that started the case, said the issues that led to the breakdown in negotiations will likely be tried next spring.

The desegregation case began in 1981 with the assertion that Alabama's higher education system was riddled with vestiges of segregation. Those vestiges included a lack of programs and facilities at the state's historically black institutions, Alabama State in Montgomery and Alabama A&M in Huntsville, and low numbers of black students, faculty and administrators at the predominantly white institutions.

The case has seen three trials and two major orders from Murphy totaling about 1,300 pages. The state has appropriated more than \$180 million to carry out Murphy's orders. Most of the money has gone to Alabama A&M and ASU for such uses as diversity scholarships, physical facilities and multimillion-dollar endowments to support various academic activities and to set up courses that Murphy's orders have enabled them to establish.

For months, the parties to the case have been trying to negotiate a transitional agreement to end it. The agreement, if reached, would run for a period of years and allow the state's colleges and universities, and the lawmakers who make budgetary decisions in Montgomery, to keep in place what the court case has achieved and keep winnowing away the higher ed system's vestiges of segregation.

Hunter said a big sticking point in the negotiations was a proposal for need-based scholarships to help low-to moderate income students meet the growing cost of higher education.

The state had agreed to push for a fund of about \$20 million that would have combined state money with federal matching dollars. It also would have included an aid program for minority doctoral students now funded by the Alabama Commission on Higher Education.

Need-based scholarships:

The plaintiffs, Hunter said, wanted a need-based scholarship program that would have amounted to about \$40 million to \$50 million. Blacksher said the figure is what Alabama would provide if its financial aid amounted to 25 percent of the federal Pell Grant college aid dollars awarded annually to students in the state. Other states served by the Southern Regional Education Board have financial aid that amounts to about 25 percent of their Pell Grant dollars, Blacksher said.

The state's flagship universities, Alabama and Auburn, objected to a separate and larger state financial aid program because the UA and AU systems have aid programs of their own, Hunter said.

"Because they sincerely feel that no student accepted to their institutions is denied admission based on financial need, they see no reason for a statewide program over which they have very little control," Hunter said.

The state already has a financial aid program amounting to about \$2 million, and most of that money goes to the state's two-year schools, Hunter said.

"It was felt that (under a new program) even with the federal matching dollars, the four-year institutions would be putting more into the program than they would receive in return," Hunter said.

While differences over a need-based scholarship program kept the parties from reaching agreement on ending the case, another issue likely to come to trial is the plaintiffs' desire for some of the historically white institutions to boost their numbers of black faculty and administrators. Blacksher said the plaintiffs want the schools to develop "diversity plans with goals and timetables."

ASU and A&M also may raise some issues on their own.

During the summer, when they thought they had a July 30 deadline to file objections, attorneys for Alabama State asked Murphy to order additional funds for the academic programs ASU has so far established under one of his decrees and to continue for 10 years the state-funded diversity scholarships he ordered.

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