

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

JOHN F. KNIGHT, JR., and ALEASE S. SIMS, et al., individually and on behalf of others similarly situated, *

Plaintiffs and Plaintiffs-Intervenors, *

UNITED STATES OF AMERICA, *

Plaintiff-Intervenor, *

v. *

Civil Action No.
2:83-cv-1676-HLM

THE STATE OF ALABAMA, et al., *

Defendants. *

**KNIGHT-SIMS PLAINTIFFS' REPLY TO DEFENDANTS' RESPONSES
TO PLAINTIFFS' MOTION TO EXTEND THE TERM
OF CERTAIN PROVISIONS IN THE REMEDIAL DECREES**

Plaintiffs John F. Knight, Jr., and Alease S. Sims et al., on behalf of themselves and on behalf of the plaintiff class of black citizens and students, faculty, staff and administrators of ASU and AAMU they represent, through undersigned counsel, pursuant to leave granted by this Court's order entered January 20, 2006, reply as follows to the responses filed by defendants to plaintiffs' motion to extend the term of certain provisions in the Remedial Decrees. This reply will address certain of the defendants' arguments and then will summarize what plaintiffs believe are the end-of-decree issues before the Court.

**UAS Is Still Standing in the School House Door Resisting
the Constitutional Mandate of the Remedial Decrees**

The State defendants, Auburn University, Troy University and the State Board of Education all acknowledge the standards this Court must apply in determining whether to relinquish jurisdiction over all or parts of the Remedial Decrees, as amended, namely:

(1) Have the defendants complied with the specific provisions of the Remedial Decrees? and

(2) Has implementation of those provisions been effective in eliminating the vestiges of *de jure* segregation in Alabama’s system of public higher education to the extent practicable and consistent with sound educational practice?¹

Only the University of Alabama System (UAS) persists in its longstanding contention that

1

Collectively, these motions present two issues:

1. Have the defendants complied with the terms of the remedial decree; and
2. Has the remedial decree achieved its intended purpose?

These questions must be answered in light of the acknowledged governing law of *United States v. Fordice*, 505 U.S. 717 (1992). As expressed by the 11th Circuit Court of Appeals:

Where plaintiffs show that a current policy is traceable to past segregation, and defendants fail to demonstrate either (1) that the policy, in combination with other policies, has no segregative effects, or (2) that none of the full range of less segregative alternative remedies are practicable and educationally sound, defendants must adopt the practicable and educationally sound alternatives that will bring about the greatest possible reduction in segregative effects. “If the State has not discharged [this remedial] duty, it remains in violation of the Fourteenth Amendment.”

Knight v. State of Alabama, 14 F.3d 1534, 1542 (11th Cir. 1994), *citing United States v. Fordice*, 505 U.S. at 727 (Emphasis Added).

State defendants’ response at 1-2; *accord*, AU response at 3 (“The basic goal of any remedial decree is to remedy the underlying violation.” (*citing Freeman v. Pitts*, 503 U.S. 467, 489 (1992))); TUS response at 2-3 (“The District Court should address itself to whether the Board had complied in good faith with the desegregation decree since it was entered, and whether the vestiges of past discrimination had been eliminated to the extent practicable.” (*quoting Board of Education of Oklahoma City v. Dowell*, 498 U.S. 237, 249-50 (1991))); SBE response at 5 (same).

its legal obligations under the Remedial Decrees and the Constitution are limited solely to compliance with the specific provisions of the 1991 Remedial Decree addressed to it, namely, (1) devising and implementing a program to increase black representation in important administrative positions at UA and UAH and (2) filing annual reports to the Court.² The general injunction to eliminate all vestiges of *de jure* segregation,³ UAS contends, imposed no further legal obligations upon it. It was not legally required to show progress in black representation in any other aspect of its administration, faculty, student body or graduates when it filed its annual reports, and any such progress reported was purely voluntary and legally meaningless. The

2

With respect to UAS, this Court's finding of vestiges in the liability phase of this case was limited only to the low number of black EEO-1 administrators employed at that time at UA and UAH. After examining hundreds of documents and listening to dozens of witnesses related to all aspects of UAS institutions, this Court found no other vestiges of segregation remaining at UA, UAB, or UAH. UAS response at 6 (footnote omitted).

Based on its finding of liability in one isolated area at UA and UAH, the only specific remedial obligation imposed on UA and UAH was to “devise and implement a program designed to increase the number of African American individuals serving in positions of important administrative responsibility. *Id.* at 7 (footnote omitted). And again, “The *only* vestige of segregation that this Court found remaining at UAH and UA was the insufficient number of African Americans serving in positions of important administrative responsibility (EEO-1s).” *Id.* at 21 (emphasis in original).

3

It is HEREBY ORDERED, ADJUDGED AND DECREED, that each Defendant, their agents, servants, employees, and their successors in office, and all persons in active concert or participation with them, be and they are hereby permanently enjoined and restrained from maintaining vestiges of discrimination in the system of public higher education in the State of Alabama and in each public institution of higher education identified as a party Defendant herein, and their successors. The Defendants are also enjoined from engaging in practices which have the effect of impeding the desegregation of the state's institutions of higher education.

Knight v. Alabama, 787 F.Supp. 1030, 1377-78 (N.D. Ala. 1991), *aff'd in relevant part*, 14 F.3d 1534 (11th Cir. 1994).

objections of plaintiffs to the annual reports had no legal significance beyond criticism of black representation in the administrations of UA and UAH. UAB was fully desegregated in 1991 and was absolved of all legal or constitutional obligations to eliminate vestiges.⁴ So too were UA and UAH with respect to black representation on their faculties.⁵ Or so UAS still argues.

The position UAS has taken throughout the past fifteen years does not reflect a good faith interpretation of this Court's injunctions. "In order to implement" the general desegregation injunction, the 1991 Remedial Decree singled out for reform particular employment "practices and procedures" at certain HWIs, including UA and UAH, which the Court found to be impeding the desegregation process. 787 F.Supp. at 1378. In doing so, the Court did not expressly or by implication hold that the low numbers of African Americans on any of the HWI faculties or administrations no longer constituted vestiges of segregation. To the contrary, the clear meaning of the 1991 opinion and Remedial Decree, read in their totality, is that all the HWIs were expected over the term of the Decree to increase black representation on their faculties and administrations to a point that would "wash the taint of the prior dual system away." 787 F.Supp. at 1187-88.⁶ That was one of the reasons this Court retained jurisdiction and has

⁴ "In its 1991 Order and Remedial Decree, this Court found *no vestige of segregation* remaining at UAB in any area. . . ." UAS response at 16.

⁵ "While the numbers and percentages, standing alone, might have appeared to be a vestige, when examined in light of the available doctoral pool, the Court concluded that no vestiges remained at UA or UAH in their respective faculties. . . . [T]his Court imposed no obligation on UAS institutions to make special efforts to increase black representation on its faculties. . . ." UAS response at 17.

⁶ We briefed this issue at length in our objections to the 2003 annual reports and motion to modify or amend the Remedial Decree. Doc. 3209 at 2-10.

required annual reports for the past fifteen years.⁷ Nor did this Court in either the 1991 or 1995 Remedial Decree close the door forever on the identification and correction of other new or different vestiges of segregation that might manifest themselves during the term of the decrees.

The Court may *sua sponte* extend the term of this Decree by entering the appropriate order if it deems that additional time is required to assure compliance and fully accomplish the Decree's objectives. The Court may also, at anytime, modify or amend the terms and conditions of this Decree as needed to guarantee the elimination of any remaining vestiges of discrimination within Alabama's system and units of public higher education.

787 F.Supp. at 1381-82.

As the other defendants appear to acknowledge, Supreme Court desegregation law requires no less. In the higher education context, as in the K-12 context, vestiges of segregation may inhere in "a racial imbalance . . . in the assignment of minority teachers and administrators."

Freeman v. Pitts, supra, 503 U.S. at 481.⁸ The results of the defendants' efforts to eliminate

⁷ "84. In its Remedial Decree, the Court has directed that it receive annual reports concerning a number of areas on a system-wide basis. Reports in these areas are important in order to assure overall compliance with the Remedial Decrees *objectives* and to guarantee that any change in an institution's policy does not frustrate the goals of the Court's decree." 787 F.Supp. at 1368 (emphasis added). Notwithstanding its protestations to the contrary, UAS betrays an understanding of why the Court imposed the annual reporting requirement when it admits that "all three UAS institutions have filed extensive reports regarding their efforts to *comply with the spirit and intent* of this Court's Remedial Decree." UA response at 8 (emphasis added).

⁸ While the Supreme Court declined to extend to higher education desegregation law the strict numerical focus on faculty and staff employment patterns in *Green v. School Bd. of New Kent County*, 391 U.S. 430 (1968), it approved the lower courts' attention to the vestiges of segregation reflected in the racial composition of university faculties and administrations. "[T]he inappropriateness of remedies adopted in *Green* by no means suggests that the racial identifiability of the institutions in a university system is irrelevant to deciding whether a State such as Mississippi has satisfactorily dismantled its prior *de jure* dual system or that the State need not take additional steps to ameliorate such identifiability." *United States v. Fordice*, 505 U.S. 717, 730 (1992).

these vestiges could not be evaluated once and for all when the decree was entered. The desegregation process is a dynamic one over which the district court has an ongoing supervisory role. “[W]ith the passage of time, the degree to which racial imbalances continue to represent vestiges of a constitutional violation may diminish, and the practicability and efficacy of various remedies can be evaluated with more precision.” *Freeman v. Pitts*, *supra*, 503 U.S. at 491-92. In the end, “[t]he District Court should address itself to whether the [defendants have] complied in good faith with the desegregation decree since it was entered, *and whether the vestiges of past discrimination [have] been eliminated to the extent practicable.*” *Id.* at 492 (emphasis added) (*quoting Dowell*, *supra*, 498 U.S. 249-250). Again last week, this Court acknowledged its ongoing responsibility to monitor the effectiveness of the specific remedies it has ordered, saying with respect to capital funding for court-ordered programs at ASU that it needed to be “more flexible in its language so as to provide a less difficult environment within which to respond to legitimate changing circumstances.” Doc. 3401 at 13 (*quoting* Doc. 2802 at 7).

This Court squarely rejected UAS’ cramped construction of the Remedial Decrees and its contention that plaintiffs are barred by law of the case from identifying new or lingering vestiges of segregation when it denied UAS’ motion to dismiss plaintiffs’ request for additional relief relating to the property tax system. Doc. 3252 at 2. Undeterred, UAS ignores this ruling, the whole scope of this Court’s opinions and Remedial Decrees, and the clear mandates of Supreme Court desegregation case law to insist that it need only demonstrate substantial progress in increasing the number of black administrators at UA and UAH to qualify for a full release from its constitutional obligation to eliminate vestiges of *de jure* segregation.

UAS is also the only defendant who relies on a distorted interpretation of the April 2,

2002, order to contend that inquiry into the level of black representation on the HWI faculties and administrations is procedurally barred. UAS response at 25. On its face, that order addresses only the “motion of the Knight plaintiffs concerning employment practices,” not the extent to which those practices have succeeded in eradicating vestiges of segregation evidenced in the level of black representation among faculty and administrators. The misreading in this regard is consistent with UAS’ overall refusal to distinguish vestiges inhering in employment policies and practices from vestiges evidenced by continued black under-representation. But UAS goes further and makes the irresponsible assertion that “[t]he only possible issue regarding HWI employment practices is whether those institutions have complied with the explicit terms of this Court’s April 3, 2002 order.” *Id.* at 26. This is a flat repudiation of the provision (insisted on by UAS in pre-order negotiations) that “[p]articipation in this program cannot be used by the Plaintiffs (US or Knight) or any other party as an admission that a participating institution has failed to comply with the Court’s orders, the Constitution, or Title VI of the 1964 Civil Rights Act.” April 2, 2002, order ¶ 2. UAS would turn this procedural shield into an all-encompassing sword. The whole point of the 2002 order was “to increase hiring and retention of African-American faculty and EEO-1 staff.” *Id.* at 4.

UAS’s enduring stance of resistance to any judicially imposed desegregation mandate raises a serious question whether it has ever tried to comply with the general injunction of the Remedial Decree that it eliminate all vestiges of segregation that are subject to its control. In all the reams of documents and reports UAS has filed over the years, it is difficult to locate any instances where this Court’s judicial decree and the constitutional duty to eradicate vestiges of segregation have ever been acknowledged explicitly and incorporated into the everyday

operations of UA, UAB and UAH.⁹ Had UAS fully embraced its constitutional obligation, greater progress likely would have been made increasing black representation in its faculties, as well as in its administrations. For example, in the two areas where UAS admits it was ordered to make progress, it congratulates itself for having increased black representation in UA's administration to 11%¹⁰ and in UAH's administration to 12%. UA response at 7. Had UAS acknowledged that it had a similar legal obligation to increase black representation in UAB's administration, perhaps the ratio at UAB today would be higher than the reported 9%. Doc. 3343, Attachment 8 at page 4. More importantly, had UAS accepted its duty to desegregate its faculties, perhaps today they too would be over 10% black, instead of 4-5% at its three campuses.¹¹ Doc. 3343, Attachment 6.

But this observation illustrates the problem the Court must confront as it carries out its end-of-decree review "to insure compliance with the Decree's terms *and objectives*." 787 F.Supp. at 1381 (emphasis added). What standards will the Court use to measure the degree to which the Decrees' desegregation objectives have been met in the faculties and administrations of the HWIs? UAS suggests the benchmark should be the level of black representation on

⁹ Plaintiffs pointed out this omission in their objections to the 1998 annual reports. Plaintiffs' objections filed September 17, 1998, at 26-27.

¹⁰ The ratio is 10% in the last annual report to the court. Doc. 3343, Attachment 8 at page 4. It should be noted that this ratio was only 6% as recently as 2002, suggesting both a push to the finish line and UA's ability to hire or promote African Americans to important administrative positions when it wants to.

¹¹ UAS proudly proclaims that "UA has for at least four years ranked first in the country in participation in the SREB Minority Doctoral Scholars program, enrolling more scholars than any of the 54 doctoral universities participating in the program throughout the United States." UAS response at 15. But its last annual report to the Court indicates that UA has hired as faculty only one of the 44 SREB scholars it accepted money to train. See Doc. 3346 at UA-31.

UAB's faculty and administration in 1991, or the level of black representation in the UAH administration that the Knight plaintiffs recognized as "commendable" in 2003. UAS response at 16, 22. Plaintiffs' pending "critical mass" motion to amend the terms of the Decree argues that the defendant institutions themselves, at a minimum, must conduct the educationally sound and practicable strategic diversity analyses universities around the country are engaged in.

Alabama's HWIs should undertake, in consultation with their African-American communities, the kind of systematic studies of their particular campus situations to address the question whether vestiges of segregation have been eliminated to the extent practicable from their faculties and administrations.

To its credit, Auburn has been engaged in precisely this exercise. AU is in the process of refining and finalizing an internally developed strategic diversity plan that includes the crucial components of extensive discussions with its African-American student, faculty and local community constituencies, the development of long-term and short-term goals that address each campus's particular circumstances, the assignment of diversity responsibilities to a high-ranking administrator and commitment to annual reviews of progress that hold all administrators accountable for meeting their goals. In addition, AU has recently received the report of external consultants that includes the recommendation "that the new President, backed by the Board, enunciate a strong and unmistakable statement underlining that Auburn intends to be open and welcoming to all of the citizens of Alabama and beyond and that it intends to vigorously recruit and retain minority students and staff, and African-Americans in particular." James L. Fisher, Ltd., Auburn University Review, November 2005 - January 2006, p. 31 (available on AU's web site).

In stark contrast with AU's efforts, UAS defiantly rejects plaintiffs' request that the Court "require all the HWIs to inquire of their black faculties and staffs if a 'critical mass' had been obtained, and if not, to develop a plan with explicit goals and timetables," because, UAS contends, "the Michigan student admissions case discussed in the Knight Plaintiffs' August 2003 pleading does not constitute a basis for creating a vestige in faculty hiring, promotion and retention that this Court already concluded was eliminated almost *fifteen years ago*." UAS response at 18-19 (emphasis added). In other words, UAS thinks the case against it was over a long time ago, and the voluminous reports it has been submitting for the last fifteen years are legally meaningless.

The continued refusal of UAS to recognize that it has any desegregation obligations under this Court's decrees and the Constitution is itself a substantial reason for requiring UAS to show cause why it should not be held in contempt. It is also grounds for this Court retaining jurisdiction over its decrees with respect to compliance by UAS.¹² UAS stands alone as the only defendant contending that this Court absolved it of almost all legal responsibility to eliminate vestiges of segregation. And UAS is the self-appointed flagship institution whose leadership example likely has affected the responses of other defendant institutions to this Court's decrees. There are many fine faculty, students and alumni of UAS who are working to overcome its historical legacy as the institution at the forefront of Alabama's massive resistance to federally

¹² Auburn quotes the relevant standard for deciding whether a particular defendant should be released from this Court's injunction: "A court should restore authority to the local entity, at least in part, (1) when the entity has demonstrated "its good-faith *commitment to the whole* of the court's decree and to those provisions of the law and the Constitution that were the predicate for judicial intervention in the first instance. . . ." AU response at 2 (*quoting Freeman v. Pitts, supra*, 503 U.S. at 491) (emphasis added).

mandated racial equality. But, as this Court and every expert witness have so often pointed out, UAS will never transform its public image and become an institution where African Americans can feel truly at home until its institutional leadership, the UAS Board in particular, openly acknowledges that “diversity” is not just a pedagogical imperative its shares with all of higher education but a legal and moral obligation it must accept under the Equal Protection Clause of the Fourteenth Amendment.

**Remedying Vestiges of Segregation in Alabama’s Financial Aid Program
Is not Barred by Res Judicata or Absence of Subject Matter Jurisdiction.**

The State defendants contend that this Court lacks jurisdiction to address vestiges of segregation in the state’s financial aid program while the property tax order is pending appeal. State response at 6. That is incorrect. This Court’s October 5, 2004, opinion and order held only that “the constitutional restrictions placed on the property tax authority of both state and local governments,” although they are traceable to the *de jure* system of segregation, “do not violate the Fourteenth Amendment.” Doc. 3294 at 83, 90. The only issue on appeal is whether this Court erred in concluding the property tax provisions of the Alabama Constitution do not violate the U.S. Constitution. Having decided against plaintiffs on the liability question, this Court never reached any remedy issues. Increasing financial aid was only one of the suggested remedies that never were addressed. Whether, within the revenue resources available to higher education, the absence of significant state financial aid is itself a vestige that must be eliminated to the extent practicable and educationally sound, or whether it is an appropriate remedy for removing other vestiges, is as much within the current subject matter jurisdiction of this Court as are all the other alleged vestiges inhering in the full range of the defendants’ policies and

practices. For example, this Court must determine whether vestiges remain in black representation on the HWIs' faculties and administrations, notwithstanding defendants' perennial arguments about the difficulty of recruiting and retaining African Americans, given the inadequate and declining state appropriations to higher education, and notwithstanding the possibility that increased property tax revenues might have made more funds available for faculty salaries.

UAS, further displaying its solitary disregard of governing desegregation law, advances several other extreme arguments. First, it renews its erroneous contention that all the vestiges of segregation subject to this Court's scrutiny and remedial power were decided once and for all either in 1991 or 1995. UAS response at 53-56. It makes no attempt to deny that this Court's extensive 2004 findings about the adverse impact on African-American students and families constitute actionable vestiges. Instead, UAS argues that plaintiffs missed their last chance to complain about the lack of financial aid in 1995, pointing to what it characterizes as "ample testimony in the record that federal assistance had for years been declining, resulting in less opportunities for lower-income students to attend college." *Id.* at 56 (footnote omitted). It deems irrelevant this Court's findings that the rising cost of public higher education in Alabama became a crisis after the 1995 trial ended. *E.g.*, Doc. 3294 at 58 n.4 (tuition at AAMU "has risen 120% since 1996, when it cost only \$920 per semester"). UAS' tortured untimeliness argument is wrong as both fact and law.

Then, without any reference to the Court's findings of racial discrimination resulting from the lack of financial aid quoted at length at pages 6-11 of plaintiffs' motion to extend the decree, UAS takes this Court's conclusion that there is too tenuous a causal connection between the state

constitutional property tax provisions and African Americans' access to higher education and refashions it as a finding of both fact and law that neither the financial aid program nor any other aspect of state funding for higher education "continue[s] to have a segregative effect on student choice." UAS response at 58 (*quoting* Doc. 3294 at p. 84 ¶ 17). Such a blatant over-reaching and misconstruction of the 2004 property tax opinion strains the boundaries of good faith argument. Neither does this Court's finding of fact that black college enrollment has increased, read in isolation, constitute a "ruling that no vestiges remain in Alabama that are causing African Americans to be denied equal access to higher education," as UAS contends. UAS response at 59. This finding certainly was one reason the Court cited to reach its ultimate conclusion that the property tax system does not violate the Fourteenth Amendment under *Fordice*, but it patently was not a finding that African Americans have equal financial access to higher education in Alabama.¹³

¹³ Plaintiffs' reply brief in the 11th Circuit property tax appeal responds to the State's reference to increasing black college graduates as follows:

The State's appellee brief at page 5 attempts to counter this finding [about the growing gap in the college enrollment rates of whites and blacks] by citing data from the 2004 annual report to the court showing black degree completions increasing by 96% from 1991 to 2003, while white degree completions dropped by 13%. The State contends these percentages show an "enormous improvement in access to higher education for Alabama's black students." *Id.* In fact, they merely reflect corresponding changes in census demographics. According to the U. S. Census Bureau, the black population of Alabama in the age 20 to 25 year-old category increased 19.4% between 1990 and 2000, while the white population age 20 to 25 years old declined 7%. PX 152. The percentage increase in black degree completions seems large because, at only 2,378, the 1991 starting number was so small. The census further shows that the percentage of black graduates over 25 years of age increased from 9% in 1990 to 11% in 2000, while white graduate percentages in the same age group increased even more, from 17% to 21%. Of course, for equal protection purposes, the relevant question is the black-white gap, and the district court properly relied on graphs introduced by the higher education expert, Dr. Donald Heller, that plainly demonstrate that *the black-white*

Finally, UAS contends that financial aid is a “race neutral” matter and that plaintiffs are “urg[ing] this Court to go far beyond its remedial powers and the parameters of this case and assume the role of the State’s chief educational policymaker, chief financial officer, and legislature.” UAS response at 61. Never mind, once again, this Court’s extensive findings that the lack of need-based financial aid disproportionately blocks black students’ access to attending and completing higher education. Rather, the argument UAS seems to make is that this Court is powerless to order eradication of racially discriminatory policies traceable to *de jure* segregation if doing so also would benefit poor white students:

A massive (race-neutral) financial aid program would appear, on the surface, to be of great benefit to the people of this State - of all races. Such a program, however, has the potential to erode the one revenue source necessary for other, equally worthy educational needs in the State that would likewise be of great, or perhaps greater benefit, to Alabamians of all races.

UAS response at 53. UAS cites no case authority for this remarkable proposition; clearly every desegregation remedy benefits some if not all white students. And it is ironic that UAS should refer to state appropriations to public higher education as “the one revenue source necessary for other, equally worthy educational needs,” when only recently it publicly announced that its institutional access to funding sources not available to other state universities soon will make it possible for UA to become a leading regional university in the South, enrolling over 28,000

enrollment gap actually increased over this period of time. As the district court pointed out, quoting Dr. Heller, all demographic groups have raised their college graduate numbers because of increases in “what economists call the college wage premium, the difference between a high school graduate, what he or she earns, and a college graduate.” Doc. 3294 at 79 (emphasis added).

students.¹⁴ UA's strategy includes concentrating its student recruiting efforts on high-achieving students in the affluent, big-city suburbs of Texas, Georgia and Florida.¹⁵ UA is trying to recruit "African-American students who are academically qualified to join the university's Honors College,"¹⁶ and apparently its endowment, which now exceeds \$350 million,¹⁷ is sufficient to cover all their financial needs. Speaking to the defendant UAS Board members on November 11, 2005, UA President Robert A. Witt is reported to have said:

"The decade in front of us is going to be the most exciting in the university's history," Witt said. Witt ticked off a list of the university's accomplishments during his 32 months in the job: more students; smarter students, as judged by the highest ACT scores among incoming freshmen in the school's history; better-paid faculty; state-of-the-art residence halls; record-setting fund-raising totals, to the tune of just more than \$100 million; and new classrooms and labs and athletic facilities, from a student recreation center to tennis courts and soccer fields to a \$50 million renovation and enlargement of Bryant Denny Stadium.¹⁸

Last November Senator Richard Shelby procured \$35 million in federal funds to help build a \$58 million science and engineering building at UA to be named after his wife.¹⁹ The faculty salaries

¹⁴ Adam Jones, "Minority enrollment rises at UA this fall; but black students make up a smaller percentage of the total student population," TUSCALOOSA NEWS, Nov. 28, 2005 (attached to this reply as Exhibit A).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ E.g., <http://www.petersons.com/ugchannel/code/InstVC.asp?inunid=9105&sponsor=1>.

¹⁸ Charles J. Dean, "Witt says UA successful, exciting times to continue," THE BIRMINGHAM NEWS, Nov. 12, 2005 (attached to this reply as Exhibit B).

¹⁹ "UA may receive building funds," THE MONTGOMERY ADVERTISER, Nov. 22, 2005 (attached to this reply as Exhibit C).

at UA already exceed the national average.²⁰ Black students who qualify for and choose to attend UA may have their financial needs taken care of. That is not the case at most of the other state universities, and neither UAS nor the State is complying with its constitutional duty to eradicate vestiges of segregation when it ignores the financial needs of Alabama's predominately black low-income students.

Summary of the Issues Joined

Based on defendants' responses to the Knight-Sims plaintiffs' motion to extend certain terms of the Remedial Decrees, the following issues are presented:

1. Is the State required by existing orders to continue line item funding for ASU's doctoral program in Educational Leadership, Policy and Law through the 2009-10 or 2010-11 school year?
2. Is the State required by existing orders to continue contributing funds for other-race scholarships which have already been awarded pursuant to the 1995 Remedial Decree for the duration of the students' attendance at ASU and AAMU, up to the seven-year maximum? If not, should the Remedial Decree be amended to require the State's contributions to continue?
3. Should the State be allowed to withdraw its support for the January 4, 2002, joint motion for the appointment of consultants to address institutional leadership questions, and how should this motion be resolved? This issue should be considered in conjunction with the Knight-Sims plaintiffs' February 13, 2002, comments on compliance relating to leadership issues at ASU and AAMU.

²⁰ Adam Jones, "UA exceeds national average for teacher pay," TUSCALOOSA NEWS, Jan. 11, 2006 (attached to this reply as Exhibit D).

4. Do the following conditions and circumstances identified in the Knight-Sims plaintiffs' February 13, 2002, comments on compliance indicate that vestiges of segregation have not been eradicated to the extent practicable and consistent with sound educational practice?

a. The racial composition of all the defendant university boards of trustees (not including the State Board of Education)?

b. The racial composition of the faculties and administrations at all the defendant universities (not including ASC and CSCC)? This issue should be viewed in conjunction with plaintiffs' August 22, 2003, objections to the 2003 annual reports to the Court, motion for contempt proceedings, and motion to modify or amend the Remedial Decrees (Doc. 3209). In this respect, plaintiffs are prepared to agree that the Court may relinquish jurisdiction over provisions of its decrees relating to African-American representation on the faculty and administration of AU (but not AUM) and release AU from the obligation to show cause why it should not be held in contempt as requested by plaintiffs' March 8, 2005, motion, when the Knight-Sims plaintiffs are informed by representatives of plaintiff class members at AU that they have indicated their agreement with the Strategic Diversity Plan and that the AU Board of Trustees has adopted the Strategic Diversity Plan.

5. What procedural mechanism should this Court employ to reserve the full range of remedial options in the event this Court's ruling that the property tax provisions of the Alabama Constitution do not violate the Fourteenth Amendment is reversed on appeal?²¹

6. Are plaintiffs entitled to the additional relief they seek in their August 22, 2003,

²¹ The Court of Appeals has scheduled oral argument on plaintiffs' appeal for Thursday, March 30, 2006. No. 05-11527 (11th Cir.).

objections to the 2003 annual reports to the Court, motion for contempt proceedings, and motion to modify or amend the Remedial Decrees requiring each of the HWI campuses to consult their advisory committees and African-American faculty members and administrators and, based on their recommendations, to propose to this Court clear numerical goals and timetables for achieving a critical mass of African Americans on their faculties and administrations, including each school or department as deemed appropriate for each particular campus (Doc. 3209)? See plaintiffs' position on AU's strategic diversity plan in paragraph 4. *supra*.

7. Based on the facts already found by this Court with respect to the State's racially discriminatory financial aid program, are the defendants violating this Court's permanent injunction prohibiting them from maintaining vestiges of discrimination or practices that impede desegregation in the system of public higher education in the State of Alabama, 897 F.Supp. at 1378, and should the Remedial Decrees be amended to require the State to increase its need-based financial aid to levels that would eliminate said vestiges of segregation and purposeful discrimination?

8. Plaintiffs also agree with ASU and AAMU that the Court has a duty to retain jurisdiction of its decrees long enough to ensure that the new academic programs it has ordered have overcome all startup difficulties and have become self-sustaining, and that all the mission remedies have achieved the desegregation objectives intended by the decrees.

9. Plaintiffs also support AAMU's position that the capital funds previously ordered by the Court have proven not to be sufficient to eradicate vestiges of segregation in AAMU's capital facilities and that additional capital funds should be ordered to fulfill the decree's objectives.

The Court also has a duty to scrutinize AAMU's other objections to terminating provisions of the

Remedial Decrees, including the agricultural research and extension provisions, to determine whether their continuation is needed to accomplish the decrees' objectives.

Discovery and Hearing

Defendants have objected to the discovery plaintiffs request with respect to the issues of financial aid and African-American representation on the HWIs' faculties and administrations. Their objections are without merit. Plaintiffs have attempted to avoid imposing onerous and unnecessary requirements on defendants' ability to provide information needed to address the question whether vestiges of segregation remain in these areas. Moreover, plaintiffs represent to the Court and to the parties that they stand ready to discuss particular difficulties collecting or exchanging the requested information and data and to make reasonable accommodations to ameliorate those difficulties.

The financial aid data plaintiffs seek are needed to show that the current financial aid regime is addressing only a small part of the unmet need of students and families and that these deficits adversely impact African Americans in particular. The discovery requested and received by plaintiffs prior to the 2004 property tax trial involved only aggregated data from each institution on the distribution of financial aid by race, class, etc. It did not include measures of unmet financial need.

The assessment of unmet need requires individual student unit data. These data must be collected by each institution, because the U.S. Department of Education, National Center for Education Statistics, requires each Title VI-eligible university to submit aggregate data on the percentage of students applying for and receiving financial aid. In addition, the National

Postsecondary Student Aid Study (NPSAS) allows analysis of estimates of net cost, unmet need, effective family contribution, etc. that is not discernible from the aggregate data and must be obtained by sampling individual student data. It is unlikely that any of the university financial aid offices do not have these student unit data in computer-readable form. Undersigned counsel has been informed by AAMU's counsel that this information is reasonably available at AAMU. To minimize any extraordinary work the institutions must do, plaintiffs have requested these data in their raw form, and plaintiffs' consultants are prepared to do the work needed to analyze and aggregate them to provide relevant evidence. In fact, we urge the Court to authorize plaintiffs' consultants, Dr. Sullivan and Dr. Heller, to communicate directly with the relevant financial aid staff at each institution to facilitate the collection of the requested data.

TUS objects that providing the student unit financial data plaintiffs request would violate the Federal Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. On the face of FERPA, this seems to be incorrect. The statute explicitly excepts from education records which may not be released information obtained "in connection with a student's application for, or receipt of, financial aid," 20 U.S.C. § 1232g(b)(1)(D), and information provided to

organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted.

20 U.S.C. § 1232g(b)(1)(F). Subject to the same proviso regarding personal identification, FERPA does not "prohibit State and local educational officials from having access to student or other records which may be necessary in connection with the audit and evaluation of any

federally or State supported education program or in connection with the enforcement of the Federal legal requirements which relate to any such program.” 20 U.S.C. § 1232g(b)(5).

Plaintiffs would expect the student unit data they receive from the institutions to be stripped of any personal identifications.

To show that vestiges of segregation remain in the faculties and administrations of the HWIs, plaintiffs expect to present testimony, documents and data, including the annual reports, showing that each campus has failed to adopt nationally accepted policies and procedures aimed at determining, based on its particular circumstances, whether it has recruited and retained a critical mass of African Americans. Plaintiffs are entitled to know before the evidentiary hearing what the institutions’ contentions will be in defense of these claims, with respect to both the practices they have implemented and the results they have obtained, which is why plaintiffs have requested that they supplement their responses to plaintiffs’ 2003 discovery request. No reasonable contention can be made that supplementing these responses would be onerous.

Plaintiffs believe that 60 days will be enough time to complete discovery, if there are no unexpected delays obtaining the data needed to analyze the racial impact of defendants’ financial aid policies. Thereafter, plaintiffs request that the Court schedule an evidentiary hearing at which the defendants will be given the opportunity to present evidence that they have satisfied their two-part burden of proof: (1) that they have complied fully with the whole of this Court’s decrees, and (2) that all vestiges of *de jure* racial segregation have been eliminated to the extent practicable and consistent with sound educational practice. Plaintiffs will be prepared to respond with evidence that at least one major institutional defendant, UAS, has refused to acknowledge and to address the legal obligations imposed by this Court’s Remedial Decrees, and that in other

respects, discussed above, vestiges of segregation that practicably can be remedied still remain.

Respectfully submitted February 13, 2006,

SARAH L. THOMPSON
Ala. Bar Code: ASB-1465-N74S
P.O. Box 947
Northport, AL 35476
Telephone: (205) 339-4621
fax: (205) 339-3219
E-mail: thompsonsue@bellsouth.net

s/ James U. Blacksher
JAMES U. BLACKSHER
Ala. Bar Code: ASB-2381-S82J
P.O. Box 636
Birmingham AL 35201
Telephone: 205-591-7238
Fax: 866-845-4395
E-mail: jblacksher@ns.sympatico.ca

DEMETRIUS NEWTON
Ala. Bar Code: ASB-9763-O73D
P.O. Box 2525
Birmingham, AL 35202
(205) 254-2369
fax: (205) 324-0511
E-mail: wilberforc@aol.com

SUSAN J. WATTERSON
Ala. Bar Code: ASB-7384-S77S
2610 19th Street South
Birmingham, Alabama 35209
Telephone: (205) 871-3980
Fax: (205) 871-4725
E-mail: tax_lawyer@bellsouth.net

Attorneys for the Knight-Sims plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Alice H Martin, US Attorney
alice.martin@usdoj.gov

Thomas M Lovett
tmlovett@una.edu

Edward S Allen
eallen@balch.com

Candis A McGowan
cmcgowan@saxonattorneys.com

David R Boyd
dboyd@balch.com

Demetrius C Newton
Wilberforc@aol.com

Larry E Craven
lcraven@alsde.edu

Robert W Rieder
riederr@email.uah.edu

William F Gardner

Braxton Schell, Jr

wfg@cabaniss.com

Edgar R Haden
ehaden@balch.com

Robert D Hunter
rob.hunter@altec.com

Carl E Johnson, Jr
carljohnson@bishopcolvin.com

Michael G Kendrick
kendrick@evglaw.com

Robin G Laurie
rlaurie@balch.com

Norma M Lemley
nlemley@uasystem.ua.edu

Fred D. Gray
fgray@glsmgn.com

Fournier J. Gale, III
bgale@maynardcooper.com

Edward A. Hosp
thosp@maynardcooper.com

C A Gonzalez
cag@gonzalez-law.com

Jeremiah Glassman
jeremiah.glassman@usdoj.gov

wbschell@bellsouth.net

Reginald L Sorrells
rsorrells@alsde.edu

William K Thomas
wkt@cabaniss.com

Sarah L Thompson
thompsonsue@bellsouth.net

Susan J Watterson
tax_lawyer@bellsouth.net

Joe R Whatley, Jr
jwhatley@whatleydrake.com

R M Woodrow
RMWOODROWFDC@aol.

Armand Derfner
aderfner@dawlegal.com

Solomon S. Seay, Jr.
lschanc@aol.com

James L. Mitchell
jmitchell@maynardcooper.com

Jean Walker Tucker
jwtucker@usouthal.edu

Edward M George
egeorge@knology.net

Jeffery A Foshee
jfoshee@knology.net

I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

Richard F Calhoun
FAULK WATKINS CLOWER & COX

PO Box 489
Troy, AL 36081
Montgomery, AL 36104

Respectfully submitted,

s/ James U. Blacksher
JAMES U. BLACKSHER
Ala. Bar Code: ASB-2381-S82J
P.O. Box 636
Birmingham AL 35201
Telephone: 205-591-7238
Fax: 866-845-4395
E-mail: jblacksher@ns.sympatico.ca

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

JOHN F. KNIGHT, JR., and ALEASE S. SIMS, et al., individually and on behalf of others similarly situated, *

Plaintiffs and Plaintiffs-Intervenors, *

UNITED STATES OF AMERICA, *

Plaintiff-Intervenor, *

v. *

Civil Action No.
2:83-cv-1676-HLM

THE STATE OF ALABAMA, et al., *

Defendants. *

EXHIBIT A TO

**KNIGHT-SIMS PLAINTIFFS' REPLY TO DEFENDANTS' RESPONSES
TO PLAINTIFFS' MOTION TO EXTEND THE TERM
OF CERTAIN PROVISIONS IN THE REMEDIAL DECREES**

Adam Jones, "Minority enrollment rises at UA this fall; but black students make up a smaller percentage of the total student population," TUSCALOOSA NEWS, Nov. 28, 2005

Article published Nov 28, 2005

Minority enrollment rises at UA this fall But black students make up a smaller percentage of the total student population

By Adam Jones
Staff Writer

TUSCALOOSA | More black students are at the University of Alabama this fall than last fall, and black, first-time freshman enrollment has increased 26 percent since fall 2002.

But because of surging growth across campus, black students make up a smaller percentage of the total student population than in any of the past four years.

With President Robert Witt's goal of enrolling 28,000 students in 2013 -- an increase of 8,000 students from when he came to Tuscaloosa in 2003 -- some on campus are placing minority enrollment under a microscope.

The Coalition for Diversity and Inclusiveness, a faculty and staff group, has held two meetings to discuss minority enrollment with campus leaders.

"I have been encouraged by the spirit of the conversation," said Jim Hall, New College professor and coalition lead organizer. "It does seem to me, people do continue to make diversity a contributing factor in enrollment."

Witt has set out to increase class size and enroll higher-achieving students, placing full-time recruiters in Texas, Georgia and Florida. In a speech to trustees earlier this month, Witt said those recruiters hit areas where students have the mobility to attend an out-of-state school.

They spend time in more affluent areas with students who have above-average grades and test scores, leading to the question of whether minority students are being neglected.

Absolutely not, said Roger Thompson, vice president for enrollment management.

"Yes, we are in the suburbs of big cities in these states," Thompson said. "The students we see at our recruiting events are as diverse as the states we're in."

In Texas, for instance, that means a large number of Hispanic students, he said.

"If you look at two of the traditionally underrepresented groups -- Hispanics and African-Americans -- we're up, and that's a good thing," Thompson said.

In a head count of students, there are 2,465 black students at UA this semester, and 379 are first-time freshmen. That's up from the 2,414 black students and 299 black freshmen in 2004.

But enrollment is up as well, so blacks make up 11.6 percent of students, down from the 11.9

percent in 2004.

On a longer timeline, black enrollment is down 2.2 percent, or 56 students, from fall 2002 when blacks were 13.3 percent of enrollment.

Though, UA still compares well to other schools in the Southeastern Conference. In head count, UA has more blacks than the much larger University of Georgia, and UA is one of the few schools with a double-digit percentage of blacks.

Auburn University has 1,834 black students this fall, making up 7.9 percent of the campus. However, Auburn's black enrollment is up 193 students, or 12 percent, since 2002.

Neither Auburn nor UA come close to matching the state's proportion of 26 percent black and 71 percent white.

"I think folks are hopeful that once recruiters in Florida and Georgia have a full year under their belt, we'll see improvements in percent," Hall said.

Another area of concern for the coalition is UA's Honors College, a crucial part of Witt's enrollment plan. Enrolling in one of the three programs housed in the college has advantages such as smaller classes, selected teachers, earlier class registration and easy-access to scholarship information.

But blacks aren't enrolling at the same rate as whites, said Robert Halli, dean of the college.

"We don't have the kind of diversity we would like to have," he told the coalition at a lunch meeting earlier this month.

In 2004-05, blacks made up 4 percent of the 72 students in the selective Computer Based Honors Program, 6 percent of the International Honors Program and 4 percent of the large University Honors Program.

"Pretty clearly, we're having trouble attracting minority students, particularly African-American students who are academically qualified to join the university's Honors College," Halli said.

The standards for getting into an honors program don't account for race, Halli said.

The problem isn't a lack of unqualified black students, but recruiting them to the programs, he said.

Despite letters qualified students receive when they are admitted, start classes and end the first semester, black students, for some reason, aren't signing up at the same rate, he said.

"I would be happy to have open admissions, then weed out those who can't keep a 3.3 grade-point average. But we don't have the resources to do that," he said.

Halli said the college is going to try several initiatives to encourage more minority participation, including inviting minority freshmen who earned better than a 3.3 GPA their first semester to a pizza party in January to hear the benefits of joining an honors program. He also appointed someone within his office to focus on diversity in enrollment.

Chad Hullett, president of the Black Student Union, said there isn't a lot of information out there

about the Honors College, and the summer before a student's first semester is hectic enough without adding the pressure of whether to join.

The concern about the Honors College led to rumors that UA's newest dorms, the impressive Riverside Residential Community, had a handful of black students since incoming honors students get priority.

But the community resembles the other dorms in terms of race, said David Jones, director of Residential Life.

Of the 960 students in Riverside, 9 percent are black, Jones said.

"We don't consider any other criteria other than first come, first serve, when making room assignments," Jones said.

Reach Adam Jones at adam.jones@tuscaloosaneews.com or 205-722-0230.

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

JOHN F. KNIGHT, JR., and ALEASE S. SIMS, et al., individually and on behalf of others similarly situated, *

Plaintiffs and Plaintiffs-Intervenors, *

UNITED STATES OF AMERICA, *

Plaintiff-Intervenor, *

v. *

Civil Action No.
2:83-cv-1676-HLM

THE STATE OF ALABAMA, et al., *

Defendants. *

EXHIBIT B TO

**KNIGHT-SIMS PLAINTIFFS' REPLY TO DEFENDANTS' RESPONSES
TO PLAINTIFFS' MOTION TO EXTEND THE TERM
OF CERTAIN PROVISIONS IN THE REMEDIAL DECREES**

**Charles J. Dean, "Witt says UA successful, exciting times to continue,"
THE BIRMINGHAM NEWS, Nov. 12, 2005**



The Birmingham News

Witt says UA successful, exciting times to continue

Saturday, November 12, 2005

CHARLES J. DEAN
News staff writer

TUSCALOOSA - University of Alabama President Robert E. Witt has no doubt that, if he could choose any time in the school's 175-year history to be its leader, he'd choose right now.

That's what Witt told school trustees Friday in an upbeat assessment of the university he has led since early 2003. Witt told trustees they should be excited about what the near future holds for UA.

"The decade in front of us is going to be the most exciting in the university's history," Witt said.

Witt ticked off a list of the university's accomplishments during his 32 months in the job: more students; smarter students, as judged by the highest ACT scores among incoming freshmen in the school's history; better-paid faculty; state-of-the-art residence halls; record-setting fund-raising totals, to the tune of just more than \$100 million; and new classrooms and labs and athletic facilities, from a student recreation center to tennis courts and soccer fields to a \$50 million renovation and enlargement of Bryant Denny Stadium.

Yet, Witt told trustees, the school remains dedicated to one goal above all others when it comes to its students.

"The message we're trying to drive home is, at the University of Alabama, you will remain an individual, not a statistic," Witt said.

Also Thursday, the board gave approval to spend an additional \$4 million on the renovation of Bryant Denny Stadium. The money will pay for a landscaped plaza approach to the north end zone.

The extra money will cover \$2.6 million for construction and landscaping of the plaza and \$1.4 million to help the Delta Kappa Epsilon fraternity relocate across the street. The plaza would take over the site where the fraternity house now sits.

The new plaza is envisioned as a scenic approach to the stadium and a green space for students on game day and during the week.

E-mail: cdean@bhamnews.com

© 2005 The Birmingham News

© 2005 al.com All Rights Reserved.

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

JOHN F. KNIGHT, JR., and ALEASE S. SIMS, et al., individually and on behalf of others similarly situated, *

Plaintiffs and Plaintiffs-Intervenors, *

UNITED STATES OF AMERICA, *

Plaintiff-Intervenor, *

v. *

Civil Action No.
2:83-cv-1676-HLM

THE STATE OF ALABAMA, et al., *

Defendants. *

EXHIBIT C TO

**KNIGHT-SIMS PLAINTIFFS' REPLY TO DEFENDANTS' RESPONSES
TO PLAINTIFFS' MOTION TO EXTEND THE TERM
OF CERTAIN PROVISIONS IN THE REMEDIAL DECREES**

“UA may receive building funds,” THE MONTGOMERY ADVERTISER, Nov. 22, 2005

montgomeryadvertiser.com

Montgomery Advertiser

This is a printer friendly version of an article from the **The Montgomery Advertiser**
To print this article open the file menu and choose Print.

[◀ Back](#)

UA may receive building funds

November 22, 2005

TUSCALOOSA -- The University of Alabama will get \$30 million in federal money to help build a new science and engineering building if President Bush approves a spending bill that includes the university.

Congress approved the bill last week. UA officials hope it is the first of five similar paydays worth \$150 million to expand engineering and the sciences at the university in the next five years.

University President Robert Witt said the planning for what to build and renovate with the money is in its infancy.

Sen. Richard Shelby, R-Tuscaloosa, helped steer \$35 million in federal money to the \$58 million Shelby Hall, named after his wife. Dedicated in May 2004, it is the largest academic building on campus.

"It is critical we provide our universities with the resources and infrastructure necessary to provide students with a first-class educational environment," Shelby said in a statement.

Witt said the money may build two to three buildings near Shelby Hall, an area of campus that will be transformed in coming years.

Part of Witt's plan to enroll 28,000 students by 2013 is for the campus to get more research money. According to the college, engineering has accounted for half of research money.

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

JOHN F. KNIGHT, JR., and ALEASE S. SIMS, et al., individually and on behalf of others similarly situated, *

Plaintiffs and Plaintiffs-Intervenors, *

UNITED STATES OF AMERICA, *

Plaintiff-Intervenor, *

v. *

Civil Action No.
2:83-cv-1676-HLM

THE STATE OF ALABAMA, et al., *

Defendants. *

EXHIBIT D TO

**KNIGHT-SIMS PLAINTIFFS' REPLY TO DEFENDANTS' RESPONSES
TO PLAINTIFFS' MOTION TO EXTEND THE TERM
OF CERTAIN PROVISIONS IN THE REMEDIAL DECREES**

**Adam Jones, "UA exceeds national average for teacher pay,"
TUSCALOOSA NEWS, Jan. 11, 2006**

This is a printer friendly version of an article from www.tuscaloosaneews.com

To print this article open the file menu and choose Print.

Article published Jan 11, 2006

UA exceeds national average for teacher pay

By Adam Jones
Staff Writer

University of Alabama professors are paid more than the national average, according to a report released by the federal Department of Education.

The information was issued last week in a report that included data from 4,000 colleges and universities.

The average salary of a full professor for public, four-year colleges was \$89,000 in the 2004-05 academic year. At UA, a full professor made an average of \$90,700 that year.

UA associate professors, with an average salary of \$65,600, also earned more than their counterparts nationally, who received an average of \$64,900. UA assistant professors made less than the national average. They were paid an average of \$52,100, compared with the national average of \$54,500.

The figures are deceiving, said Mathew Winston, Faculty Senate president.

"That comparison seems, to me, to be a false comparison," he said. "We stack up very differently to comparable research universities, and by that comparison, the faculty is not overpaid at all."

Compared to 31 similar institutions in the Southern University Group, UA salaries are less than the average, according to data provided by the university.

Full professors in the group make an average of \$94,300, associate professors make \$66,900 and assistant professors make \$58,000, according to the data.

President Robert Witt has vowed to raise faculty salaries of all ranks and disciplines to better than 75 percent of faculty pay at 31 similar institutions in the Southern University Group. Trustees have approved salary increases the past two years.

"We've made significant progress the past two years, but we've got a ways to go," said Provost Judy Bonner. "I don't think professors are leaving anymore for the money. The bleeding has stopped."

UA trustees requested \$14 million from the state to pay for merit-based faculty and staff pay raises in the 2005-2006 academic year.

Across town, salaries at Stillman College, a historically black institution, don't compare well to other private, four-year colleges.

The average salary for a professor at Stillman for the 2004-05 academic year was \$50,300,

compared with the national average of \$93,024. Associate professors at Stillman made an average of \$43,900, while the national average was \$64,400. Stillman assistant professors earned an average of \$35,700, while the national average for the rank was \$53,800.

But that's comparing apples to oranges, said Christopher Jefferies, vice president for financial affairs.

"With that, they are considering a number of institutions such as Harvard and Stanford [universities]," he said. "The averages are going to go upwards when you do that."

Stillman couldn't pay a \$93,000 salary, so it must be compared to Southern private institutions offering few graduate degrees, Jefferies said.

"We do OK," he said. "Eighty-three percent of our faculty have terminal degrees. If we weren't paying them anything, we wouldn't have those numbers."

Compared with 27 Southeastern private colleges of similar size and mission, Stillman's full and associate professors had a higher average salary, but assistant professors made less, according to the Department of Education.

Stillman faculty did not get a pay raise this year, Jefferies said.

The University of West Alabama also paid faculty less than the national average. But UWA, a regional university without a research component, is clumped in a group with larger schools like UA in the Department of Education report.

The average salary for a full professor at UWA was \$56,800. For associate professor, it was \$48,500. Assistant professors were paid an average of \$41,500.

UWA professors at all ranks also made less than the average salary of their counterparts at 43 similar institutions.

Reach Adam Jones at adam.jones@tuscaloosaneews.com or 205-722-0230.

