

**Hart v. Community School Bd., 383 F. Supp. 699**  
**U.S. District Court for the Eastern District of New York, April 2, 1974**  
**Judge: Jack B. Weinstein**  
**(Excerpt)**

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*C. Racial Imbalance at Mark Twain*

Over the past ten years, the racial balance of the Mark Twain student body has changed drastically. In 1962 white students comprised about 81% of the total enrollment. (The category "white students" may include a very few Orientals and American Indians.) In each of the last ten years, the percentage of white students has declined. By 1973 white students comprised only about 18% of the total enrollment.

In 1962, black students comprised about 7.4%, and Hispanic (mostly Puerto Rican) students about 11.6%, of the total enrollment. In each of the last ten years, the percentage of nonwhite students at Mark Twain has increased. By 1973 blacks comprised about 43.3%, and Hispanics 38.6%, of the total enrollment.

This drastic change in the racial balance at Mark Twain has been due more to the "attrition" of white students than to any influx of minority students. In 1962 whites numbered 1566 out of a total 1933 students; by 1973 they number only 129 out of 713. By contrast, in 1962 blacks numbered 143, and Hispanics 224, out of a total 1933 students; and by 1973 blacks still numbered only 309, and Hispanics 275, out of 713.

Significantly, the percentage of black students at Mark Twain increased even during the two years (1969-70 and 1971-72) when there was a slight decrease in the actual number of black students. Similarly, the percentage of Hispanic students increased during the 1968-72 period when the actual number of Hispanics at Mark Twain declined.

The racial imbalance at Mark Twain stands in marked contrast to, and compares very unfavorably with, the racial composition at the other Junior High and Intermediate Schools in District 21.

In the fall of 1973, about 30.4% of all the students - resident and nonresident - attending schools in District 21 -- elementary, intermediate, junior and high -- were nonwhite. 17.43% were black; 11.54% were Puerto Rican; and 1.41% were other Spanish-surnamed. Yet -- it bears repeating -- at that same point, 81.9% of the student enrollment at Mark Twain was nonwhite.

*D. Underutilization of Mark Twain*

To put the racial imbalance at Mark Twain in perspective, we must examine the extent to which the school is under-utilized.<sup>1</sup>

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Schools in District 21	1973-1974 Utilization Rate
J.H.S. 239 (Mark Twain)	41%
J.H.S. 228	100%
J.H.S. 43	80%
J.H.S. 281	108%
I.S. 96	106%
I.S. 303	80%

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#### *G. Action of School Officials Contributing to Present Situation*

To a substantial degree the present condition at Mark Twain is attributable to decisions of school officials. The racial composition and utilization of a school is determined in large part by its feeder pattern – that is, in the case of a Junior High School such as Mark Twain, by which graduating elementary students are zoned into that school.

Public School 212 and Public School 216 are both elementary schools with predominantly white student bodies. During the 1973-74 school year, blacks and Hispanics together comprised 39.2% of the total student enrollment at P.S. 212, and 9.6% of the total student enrollment at P.S. 216. At one time students at both P.S. 212 and P.S. 216 fed into Mark Twain – that is, they "graduated" from P.S. 212 and P.S. 216 and under school board rules and regulations, went on to that Junior High School.

Up until September, 1965, about 50% of the graduating class at Elementary School 216 fed into Mark Twain. The other 50% fed into J.H.S. 228. By September, 1966, pursuant to a change in school zoning patterns [made by the school board], all of the graduating class at P.S. 216 began feeding into J.H.S. 228.

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<sup>1</sup> Utilization refers to the percentage of a school's available seats that are occupied by students. Thus, an "under-utilized" school means that less than 100 percent of its seats are full.

Apparently, then, in September, 1966, every graduate of P.S. 216 entered grade 7 at J.H.S. 228. By September, 1968, the change was complete. Because the P.S. 216 students who had been graduating into Mark Twain were predominantly white, this change in feeder pattern had the natural and foreseeable effect of decreasing the white student enrollment at Mark Twain.

In September, 1966, J.H.S. 281, newly constructed, opened its doors. At that time, pursuant to a change in school zoning patterns, P.S. 212 students, who up until then had been feeding into Mark Twain, began attending J.H.S. 281. Because the P.S. 212 students were predominantly white, the construction of J.H.S. 281 in conjunction with the change of feeder pattern effectuated with regard to these two schools had the natural and foreseeable effect of decreasing the white student enrollment at Mark Twain.

In September, 1965, P.S. 303, newly constructed, opened its doors as an elementary facility. The Board of Education's Central Board had planned for P.S. 303 to be converted into an intermediate facility. ...

In adding grades 7 and 8 to P.S. 303, the local School Board withdrew children from the almost entirely white occupied Warbasse Houses and Luna Park House from Mark Twain. Ms. Delores Chitraro, until 1972 Superintendent of District 21, described this development at the trial:

We withdrew Warbasse House children, the junior high school children, from Mark Twain; we did it on a gradual basis and we withdrew Luna Park. We withdrew those youngsters because we had received figures from school planning and also from the Housing Authority that the new housing coming up in Coney Island would give to us an additional population, that is, children in addition to those already living in Coney Island, which would include a certain number of white children.

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P.S. 303 was located in a predominantly white, middle class neighborhood and, consequently, the conversion of P.S. 303 from an elementary to an intermediate facility had the natural and foreseeable effect -- insofar as it directed students away from Mark Twain -- of decreasing the white student enrollment at Mark Twain. In the words of one witness:

[In converting P.S. 303 into an intermediate school,] you practically guaranteed you were going to draw some white children from the area and this [P.S. 303] was going to become a school that would further weaken the white strength that was in 239 [Mark Twain].

Presently, then, only elementary schools P.S. 188 and P.S. 288 feed into Mark Twain. During the 1973-74 school year, blacks comprised 48.3% and Hispanos 30.9% of the total student enrollment at P.S. 188. During this same year, blacks comprised 50.4%, and Hispanos 41.5%, of the total student enrollment at P.S. 288.

The various actions of the Community Board, and the predecessor local School Board described above – the rezoning effectuated with regard to Elementary School 216; the construction of J.H.S. 228 and the attendant rezoning of students graduating from Elementary School 212; and the phased conversion of P.S. 303 – individually and together, had the foreseeable, inevitable effect of decreasing the white student enrollment at Mark Twain. It helped bring about the severe racial imbalance which we have already described.

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[Superintendent Chitaro commented further]

“Those parents of the Coney Island area . . . were in favor of having an integrated school situation in Mark Twain, and were in favor of better utilization for Mark Twain because of the diminishing of services . . .

In the [P.S.] 212 and [P.S.] 216 areas and the [J.H.S.] 281 area, to the best of my knowledge, there was an overwhelming opposition to forming a better integrated school at Mark Twain . . . because of the feeling of the parents that, one, the education facility at Mark Twain was not as good as either [J.H.S.] 228 or [J.H.S.] 281 and, two, their greater fear for safety of the children going to and from Mark Twain and, to some degree, inside the premises of Mark Twain.”