## 1. NAME OF PROPERTY

Historic Name: New Kent School, George W. Watkins School

Other Name/Site Number: New Kent Middle School, George W. Watkins Elementary School

## 2. LOCATION

Street & Number: New Kent: 11825 New Kent Highway Not for publication: __
Watkins: 6501 New Kent Highway

City/Town: New Kent: New Kent
Watkins: Quinton

State: VA County: New Kent Code: 127 Zip Code: New Kent: 23124, Watkins: 23141

## 3. CLASSIFICATION

| Ownership of Property | | Category of Property | |
|---|---|---|---|
| Private: | ___ | Building(s): | X |
| Public-Local: | ___ | District: | __ |
| Public-State: | X | Site: | __ |
| Public-Federal: | __ | Structure: | __ |
| | | Object: | __ |

Number of Resources within Property

| Contributing | Noncontributing |
|---|---|
| 5 | 4 buildings |
| ___ | ___ sites |
| ___ | ___ structures |
| ___ | ___ objects |
| 5 | 4 Total |

Number of Contributing Resources Previously Listed in the National Register: N/A

Name of Related Multiple Property Listing:

## 4. STATE/FEDERAL AGENCY CERTIFICATION

As the designated authority under the National Historic Preservation Act of 1966, as amended, I hereby certify that this ____ nomination ____ request for determination of eligibility meets the documentation standards for registering properties in the National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60. In my opinion, the property ____ meets ____ does not meet the National Register Criteria.

Signature of Certifying Official Date

State or Federal Agency and Bureau

In my opinion, the property ____ meets ____ does not meet the National Register criteria.

Signature of Commenting or Other Official Date

State or Federal Agency and Bureau

## 5. NATIONAL PARK SERVICE CERTIFICATION

I hereby certify that this property is:

___ Entered in the National Register
___ Determined eligible for the National Register
___ Determined not eligible for the National Register
___ Removed from the National Register
___ Other (explain): _____

Signature of Keeper Date of Action

## 6. FUNCTION OR USE

Historic: Education Sub: School

Current: Education Sub: School

## 7. DESCRIPTION

Architectural Classification: Late 19th and 20th Century Revivals: Colonial Revival

Materials:

Foundation:
Walls: Brick
Roof: Slate
Other:

**Describe Present and Historic Physical Appearance.**

The New Kent School and the George W. Watkins School are located about seven miles apart on Route 249, the main road through rural New Kent County, Virginia. Both brick facilities range from one to two stories and sit back several feet from the road on large lots within a wooded setting. Over time the schools have expanded to contain two major buildings each with large schoolyards to the rear.

New Kent School

The New Kent School buildings were constructed in 1930, 1954, and 1975 (see Figure 7). The Colonial Revival 1930 building has a three-bay façade with flanking wings. Two triple 6/6 double-hung windows flank the central arched entry that features a broken pediment over half-glass metal doors and a fanlight. The slate roof has three 6/6 dormer windows with hipped roofs. Parapet gable ends contain small arched louvered windows. The wings feature fine brick work in a diapering pattern with Flemish bond glazed headers. A cornice runs along the front and sides of the building. One soldier course under the cornice extends along the façade and building sides. A second soldier course on the façade runs under the windows and extends along the building sides between the first and second floors. The identical east and west sides of the building contain multiple sets of double-hung windows. This building contains offices, a library, the teacher's lounge, an auditorium, and classrooms. A gymnasium attached to the rear of the building in 1974 was built after the period of significance and is therefore a noncontributing addition.

The 1954 building is located east of the 1930 building. The three-bay façade has an off-center entry flanked on one side by two sets of six casement windows and on the other side by one set of six casement windows. The remaining sides of the building are characterized by multiple sets of casement windows. This building contains classrooms along a central hallway, offices, and a computer lab. In 1974 a lab building was added to the rear of the building, via an attached enclosed walkway, and is considered a noncontributing addition.

The buildings continue to operate as schools and the setting and buildings retain high integrity despite some modifications. Aluminum insulated windows replaced the original wood windows, however, the original 6/6 pattern was maintained. The auditorium in the 1930 building replaced two classrooms (K-1 and K-7 on Figure 7) in approximately 1985, but maintains the original classroom size. The 1974 additions (gymnasium and lab building) to the 1930 and 1954 buildings located at the rear of the buildings are not readily visible from the road. Noncontributing buildings include the 1974 Middle Building, and the Bus Shop and Vo. Ag. Bldg. These buildings are located west of the 1930 building and do not interrupt the original relationship between the earlier buildings.

George W. Watkins School

The George W. Watkins School buildings were built in 1950, 1960, 1966, and 1974 (see Figure 8.) The 1950 building is a rectangular-shaped building with a flat roof and a common bond brick pattern of five stretcher rows and one header row. The 7-bay symmetrical front façade has a central entryway with half-glass double metal doors and a single glass transom for each door. George W. Watkins School is written in the concrete entryway. The entry is flanked by three double sets of metal casement windows. Muntins divide the six light windows so that narrow panes appear on each side of the wide center panes. Multiple sets of casement windows line the remaining sides of the buildings. This section contains classrooms, offices, and an auditorium that line the central hallway and remain in their original configuration.

The one-story 1960 building has a flat roof and an off-center entry comprised of two, 3-pane glass doors divided by a 3-pane center light. The front façade is lined with multiple sets of casement windows. The remaining sides of the building are also comprised of sets of metal casement windows with some stretches of plain brick walls. This section contains classrooms along the central hallways, offices, and the cafeteria.

The rectangular shaped one-story 1966 building is located behind the 1950 building. The building has a flat roof and its only feature consists of four 3-pane casement windows on its east and west sides. Classrooms are located along a central hallway.

The three contributing buildings retain high integrity with no interior alterations and one exterior alteration on a room of the 1950 building where the 1974 gymnasium was attached. Despite the construction of the gymnasium, the settings of the 1950 and 1960 school buildings retain their integrity as two distinct buildings because the gymnasium is located at their rear building lines. Two modern modular teaching units located at the rear of the 1966 building are noncontributing resources.

## 8. STATEMENT OF SIGNIFICANCE

Certifying official has considered the significance of this property in relation to other properties:
Nationally: X Statewide:__ Locally:_

Applicable National
Register Criteria: A__ B__ C__ D_

Criteria Considerations
(Exceptions): A__ B__ C__ D__ E__ F__ G__

NHL Criteria: 1

NHL Exceptions: 8

NHL Theme(s): II. Creating Social Institutions and Movements
2. Reform Movements
III. Expressing Cultural Values
1. Educational and Intellectual Currents
IV. Shaping the Political Landscape
1. Parties, protests and movements

Areas of Significance: Law, Politics/Government, Social History, and Education

Period(s) of Significance: 1965-1968

Significant Dates: 1968

Significant Person(s):

Cultural Affiliation:

Architect/Builder:

Historic Contexts: Racial Desegregation in Public Education in the United States

XXVII. Education
B. Elementary, Interim, and Secondary Education
XXXI. Social and Humanitarian Movements
M. Civil Rights Movement

**State Significance of Property, and Justify Criteria, Criteria Considerations, and Areas and Periods of Significance Noted Above.**

## Summary Statement of Significance

The New Kent School and the George W. Watkins School, located in New Kent County, Virginia, are associated with the most significant public school desegregation case the U.S. Supreme Court decided after *Brown v. Board of Education*. The 1968 *Green v. New Kent County* decision defined the standards by which the Court judged whether a violation of the U.S Constitution had been remedied in school desegregation cases. Henceforth, a decade of massive resistance to school desegregation in the South from 1955-1964, would be replaced by an era of massive integration from 1968-1973, as the Court placed an affirmative duty on school boards to integrate schools. The New Kent and Watkins schools illustrate the typical characteristics of a southern rural school system that achieved token desegregation following *Brown* and stand as a symbol to the modern Civil Rights Movement of 1954-1970 to expand the rights of black citizens in the U.S. The schools are eligible under NHL criterion 1 and are being nominated as part of the Racial Desegregation in Public Education in the United States Theme Study.

## The Decade Following *Brown*, 1954-1964

At issue in the *Brown v. Board of Education* decision was the constitutionality of states to maintain dual public education systems. These systems were based on the 1896 U.S. Supreme Court decision in *Plessy v. Ferguson*. In this case, the Court found that the Constitution permitted separate facilities for blacks and whites as long as they were substantially equal.[1] In the years following *Plessy*, northern and southern school systems, with few exceptions, assigned pupils by zone lines around each school.[2] Under these attendance zones, whites in an area attended the white school and blacks attended the black school. Such a method, the states reasoned, was based on placing children in the school nearest their home, encouraged the use of schools as community centers, and generally facilitated planning for expanding school populations.

Then came the U.S. Supreme Court's 1954 decision in *Brown v. Board of Education*, finding racially-based pupil assignment in public schools to be unconstitutional under the Equal Protection Clause of the Fourteenth Amendment.[3] A year later, in *Brown II*, the U.S. Supreme Court ordered public school systems to desegregate "with all deliberate speed;" leaving the pace and method of desegregating schools up to state legislation and district courts.[4] Because of *Brown*, pupil placement took on a new dimension. In the words of one constitutional law scholar, "The placement of pupils, formerly an unpublicized task for local school administrators, is now, in addition to being fraught with immense social and educational implications, a matter of constitutional dimension."[5]

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[1] 163 U.S. 537 (1896).

[2] *Charles C. Green, et al., v. County School Board of New Kent County, Virginia, et al.* Case No. 695, Brief for the Petitioners in Philip B. Kurland and Gerhard Casper, eds., *Landmark Briefs and Arguments of the Supreme Court of the United States: Constitutional Law,* Vol. 66 (Arlington, VA: University Publications of America, Inc., 1975), 81, referring to article by Daniel J. Meador, "The Constitution and the Assignment of Pupils to Public School," 45 Va. L. Rev. 517, 1959.

[3] *Brown v. Board of Education*, 347 U.S. 483 (1954). For a history of the school desegregation movement see National Park Service, *Racial Desegregation in Public Education in the United States Theme Study* (Washington, D.C.: Government Printing Office, August 2000).

[4] *Brown v. Board of Education,* 349 U.S. 294 (1955).

[5] Daniel J. Meador, "The Constitution and the Assignment of Pupils to Public School," 45 Va. L. Rev. 517 at 518, 1959.

Cooperation between the federal courts and local authorities in the desegregation process was not forthcoming. Southern school boards and state governments were committed to the philosophy of "massive resistance" to desegregation and Federal judges had no specific guidance on appropriate school desegregation remedies. From 1955 through 1967, "the Supreme Court decided few desegregation cases and provided little help for the lower courts."[6] Even when courts forced local school authorities to alter their pupil assignment practices to some degree, it was often done with adopted policies that appeared neutral on their face but were in fact designed to minimize racial integration in the schools, resulting in only token desegregation.[7]

In defense of these lower court actions throughout this period, opinion was deeply divided as to the meaning of remedy ordered by *Brown II*.[8] One court interpretation was that *Brown* barred enforced segregation, but did not mandate integration. In the Fourth Circuit Court of Appeals 1955 decision in *Briggs v. Elliott*, Judge John J. Parker's opinion concluded:

> Nothing in the Constitution or in the decision of the Supreme Court takes away from the people freedom to choose the schools they attend. The Constitution, in other words, does not require integration. It merely forbids discrimination.[9]

Under this decision, known as the *Briggs* dictum, formerly state-segregated school systems could meet their constitutional obligations by removing legally imposed attendance assignments based on race and replacing them with pupil placement plans.[10] By the late 1950s, popularity of these plans made them the South's standard response to *Brown* and black and white students went to the original separate black and white schools. One disparaging description notes the relatively low chance of pupils transferring schools:

> Under these plans, children were to be assigned to schools according to a long list of vague, ostensibly nonracial criteria. In practice, they were simply initially assigned by race as before, and the plan became operative only upon a pupil's request for a transfer. The vagueness of the criteria and provisions for administrative and judicial appeals were usually sufficient to ensure that the applicant would sooner be graduated than transferred.[11]

The U.S. Commission on Civil Rights would later describe progress in the first decade following *Brown* as frustratingly slow; characterized by both the failure of the "all deliberate speed" doctrine and open resistance to desegregation.[12]

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[6] U.S. Commission on Civil Rights, *Desegregation of the Nation's Public Schools: A Status Report* (Washington, D.C.: Government Printing Office, February 1979), 1, quoting constitutional scholar Robert B. McKay.
[7] Kermit Hall, Editor-in-Chief and James W. Ely, Jr., Joel B. Grossman, William M. Wicek, *The Oxford Companion to the Supreme Court of the United States* (New York: Oxford University Press, 1992), 703; David Armor, *Forced Justice: School Desegregation and the Law* (New York: Oxford University Press, 1995), 27.
[8] Armor, *Forced Justice*, 27.
[9] *Briggs v. Elliott*, 132 F. Supp. 776 (1955), at 777.
[10] Dennis J. Hutchinson, "Green v. County School Board of New Kent County," in Hall, *The Oxford Companion to the Supreme Court of the United States*, 347.
[11] Lino A. Graglia, "From Prohibiting Segregation to Requiring Integration: Developments in the Law of Race and the Schools Since *Brown,*" in Walter G. Stephan and Joe R. Feagin, eds., *School Desegregation: Past, Present, and Future* (New York: Plenum Press, 1980), 73.
[12] U.S. Commission on Civil Rights, *Twenty Years After Brown: Equality of Educational Opportunity,* (Washington, D.C.: Government Printing Office, March 1975) 9-10.

## The Civil Rights Act and Freedom of Choice Plans, 1964-1968

Beginning in 1964 the courts would share school desegregation efforts with the federal government under passage of the Civil Rights Act of 1964. Under this Act the Attorney General had authority to file school desegregation cases (Title IV) and the Department of Health, Education, and Welfare (HEW) was empowered to withhold federal funds from school districts that continued to discriminate (Title VI).[13] Debate over passage of the Act concerned racial balance in achieving school desegregation. According to one scholar, racial balance became "one of the most controversial and highly emotional issues in the field of education, and is perhaps the most widely debated issue in American constitutional law."[14] Southern representatives feared that the Act would require integration that would lead to a requirement of pupil placement based on race.[15] To overcome these fears, Congress specifically excluded from the definition of desegregation "the assignment of students to public school in order to overcome racial imbalance." Instead, desegregation was defined in general terms as "the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin."[16]

The Civil Rights Act of 1964 became "the most comprehensive civil rights legislation in U.S. history"[17] and the basis for a new approach to school desegregation as "all or nearly all public school systems did received Federal financial assistance."[18] Most of the students who changed to desegregated schools did so after the onset of compliance with Title VI. However, the majority of black children in the South still attended segregated schools.[19]

HEW's Statement of Policies under Title VI allowed three methods by which a school district could eliminate dual or segregated school systems and thereby qualify for federal financial assistance. School districts could: 1) execute an assurance of compliance (using an HEW form), 2) submit a final order of a court of the US requiring desegregation of the school system, and agree to comply with the order and any modification of it, or 3) submit a plan for desegregation of the school system which the Commissioner of Education determines is adequate to accomplish the purposes of the Civil Rights Act of 1964. Three types of voluntary desegregation plans were acceptable: freedom of choice, geographic attendance areas, or a combination of both.[20]

Under freedom of choice, students chose which school they wished to attend. Even the National Association for the Advancement of Colored People (NAACP), which had brought *Brown* and its precursors to court, urged its local affiliates after *Brown II* to request this plan for a brief period.[21] Between 1964 and 1968, freedom of

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[13] Part of the President's cabinet, a purpose of HEW is to provide equal educational opportunity to all Americans.
[14] James R. Dunn, "Title VI, The Guidelines and School Desegregation in the South," in 53 Va. Law Rev. 42, 1967, at 76.
[15] Graglia, "From Prohibiting Segregation to Requiring Integration," 73.
[16] U.S. Commission on Civil Rights, *Survey of School Desegregation in the Southern and Border States, 1965-66* (Washington, D.C.: Government Printing Office, February 1966), 19, fn 93.
[17] Jeffrey A. Raffel, *Historical Dictionary of Segregation and Desegregation: An American Experience (*Westport, Conn.: Greenwood Press, 1998), 49.
[18] Pursuant to the Elementary and Secondary Education Act of 1965, funds exceeding half a billion dollars became available to the seventeen southern states that practiced segregation. U.S. Commission on Civil Rights, *Survey on School Desegregation in the Southern and Border States, 1965-66,* Washington, D.C., 1966, as quoted from Graglia, "From Prohibiting Segregation to Requiring Integration," 74, fn 11.
[19] Dunn, "Title VI, the Guidelines and School Desegregation in the South," 43.
[20] U.S. Commission on Civil Rights, *Survey of School Desegregation,*19-20. The Statement of Policies is contained in the U.S. Office of Education's (Dept. of HEW), "General Statement of Policies Under Title VI of the Civil Rights Act of 1964 Respecting Desegregation of Elementary and Secondary Schools", I, April 1965. Voluntary plans contained in same Statement of Policies, section VA.
[21] Hutchinson, "Green v. County School Board of New Kent County," 347.

choice plans replaced Pupil Placement Plans as the principal means school districts used to desegregate under HEW voluntary plans and court ordered plans.[22]

Like Pupil Placement Plans, freedom of choice promised only limited integration, all the while winning federal court approval and avoiding loss of federal funds.[23] The courts were dealing with school desegregation on a case-by-case approach that had been unable to cope with the "gargantuan task of desegregating even a fraction of the over 2,000 legally segregated school districts in the South."[24] In 1965-66 the U.S. Commission on Civil Rights completed an extensive report of school desegregation in the Southern and Border States that conveyed the ongoing struggles to desegregate schools. Even though significant progress had been made in securing the agreement of school districts to desegregate their schools, the highest estimate for the extent of integration was no more than 1 black child out of every 13 in the Deep South was in a school with white children.[25] The U.S. Commission on Civil Rights reported in 1967 on reasons advanced for the failure of freedom of choice plans.

> Freedom of choice plans, which have tended to perpetuate racially identifiable schools in the Southern and Border States, require affirmative action by both Negro and white parents and pupils before such disestablishment can be achieved. There are a number of factors that have prevented such affirmative action by substantial numbers of parents and pupils of both races:
>
> (a) Fear of retaliation and hostility from the white community continue to deter many Negro families from choosing formerly all-white schools;
>
> (b) During the past school year [1966-1967], as in the previous year, in some areas of the South, Negro families with children attending previously all-white schools under free choice plans were targets of violence, threats of violence and economic reprisal by white persons, and Negro children were subjected to harassment by white classmates notwithstanding conscientious efforts by many teachers and principals to prevent such misconduct;
>
> (c) During the past school year, in some areas of the South public officials improperly influenced Negro families to keep their children in Negro schools and excluded Negro children attending formerly all-white schools from official functions;
>
> (d) Poverty deters many Negro families in the South from choosing formerly all-white schools. Some Negro parents are embarrassed to permit their children to attend such schools without suitable clothing. In some districts special fees are assessed for courses which are available only in the white schools;

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[22] The HEW guidelines of 1965 required desegregation of at least four grades by September 1965. In 1966 the guidelines were amended to include specific percentages of desegregation for measuring plan effectiveness. U.S. Commission on Civil Rights, *Twenty Years After Brown*, 12. Raffel notes that the desegregation guidelines issued by HEW after the passage of the Civil Rights Act of 1964 and the Elementary and Secondary Education Act of 1965 led to the desegregation of the South's schools. Raffel, *Historical Dictionary of School Segregation and Desegregation,* 80. Free choice plans were favored overwhelmingly by the 1,787 school districts desegregating under voluntary plans, U.S. Commission on Civil Rights, *Southern School Desegregation 1966-1967*, (Washington, D.C.: Government Printing Office, July 1967) 45.

[23] Harvie J. Wilkinson, III, *From Brown to Bakke: The Supreme Court and School Integration: 1954-1978* (New York: Oxford University Press, 1979), 108.

[24] Dunn, "Title VI, the Guidelines and School Desegregation in the South," 42.

[25] U.S. Commission on Civil Rights, *Survey of School Desegregation,* 51. The Deep South includes the states of South Carolina, Alabama, Mississippi, Louisiana, and Georgia. Common characteristics of these states include a high percentage of black population, former members of the Confederacy, states where slavery flourished, and involvement in massive resistance to school desegregation as defined in Raffel, *Historical Dictionary of School Segregation and Desegregation,* 77.

> (e) Improvements in facilities and equipment…have been instituted in all-Negro schools in some school districts in a manner that tends to discourage Negroes from selecting white schools.[26]

Within judicial enforcement of school desegregation, two Court of Appeals opinions from 1965-1966 would put free choice plans into question. In 1965 the Eighth Circuit Court of Appeals rejected the *Briggs* Dictum in an El Dorado, Arkansas case stating that the dictum was "logically inconsistent with Brown and subsequent decisional law on this subject."[27] In 1966, the Fifth Circuit Court of Appeals in *United States v. Jefferson County Board of Education,* also rejected the *Briggs* Dictum and called for affirmative action to eliminate racially identifiable schools and expressly abolished "permissive" freedom of choice.[28] Overall, rulings from the Fifth Circuit under Judge John Minor Wisdom would transform the face of school desegregation law.[29] In 1966 HEW guidelines also approved freedom of choice, but only if tangible evidence of actual integration were forthcoming.[30] Neither the courts nor HEW guidelines raised policies of racial balance.

Moving toward the *Green* case, one law professor wrote that in the movement to desegregate schools, there were two revolutions. The first was Brown's prohibition on segregation and the second was to compel integration. By 1967, segregation had ended, but school racial separation had not. The move from prohibiting segregation, to requiring integration would begin in the Supreme Court with *Green v. New Kent County*.[31]

## The *Green* Challenge to Freedom of Choice

In March 1965, black plaintiffs in New Kent County in Virginia filed suit in the U.S. District Court to end the maintenance of separate schools for the races.[32] The Watkins and New Kent schools are located in a small, rural school district in eastern Virginia. Both schools spanned elementary to high school. The county school board, supported by Virginia law, had failed to desegregate the schools for ten years after *Brown* operating on a statewide basis by a State Pupil Assignment Law.[33] Although the county was residentially integrated, all white students attended the New Kent School and all black students attended the Watkins School.

In August 1965, facing the loss of federal funds posed by the 1964 Civil Rights Act, the school board adopted a freedom of choice plan whereby students entering the first or eighth grades had to select one of the two schools

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[26] U.S. Commission on Civil Rights, *Southern School Desegregation, 1966-67,* 88.
[27] *Kemp v. Beasley,* 352 F.2d 14 (1965), at 21 as quoted in Dunn, "Title IV, The Guidelines and School Desegregation in the South," 69.
[28] *United States v. Jefferson County Board of Education*, 380 F.2d 385 (1967). This case consolidated seven cases from Alabama and Louisiana where the school districts had made no progress desegregating their schools 11 years after the *Brown* decision. Raffel, *Historical Dictionary of School Segregation and Desegregation,* 264.
[29] Wilkinson, *Burden of Brown*, 111.
[30] Ibid., 108.
[31] Graglia, "From Prohibiting Segregation to Requiring Integration," 75.
[32] *Green* was filed as a companion case to *Bowman v. County School Board of Charles City County, Virginia*, 382 F. 2d 326 (1967). In the *Bowman* case, neighborhoods were non-segregated; however the school board maintained three distinct school systems organized along racial lines; one system each for black, white, and Indian. Led by the New Kent County Branch of the NAACP, under President Dr. Calvin Green; and the black civic league under President Nathaniel Lewis, *Green v. County School Board* was filed under Calvin Green's youngest son's name, Charles Conrad Green, thus ensuring completion of the case since Charles would still be in school. Personal interviews with Dr. Calvin Green and Ms. Cynthia Gaines, New Kent County and Richmond, VA, November 6, 2000.
[33] Pupil Placement Act, Va. Code 22-232.1 et seq. (1964) divested local boards of authority to assign children to particular schools and placed that authority in a State Pupil Placement Board. The act was repealed in 1966.

to attend.[34] If no choice was made the student was assigned to the school attended previously. In June 1966, the District Court approved the freedom of choice plan as amended and the black plaintiffs appealed the decision.

In June 1967, the Fourth Circuit Court of Appeals affirmed the freedom of choice plan but sent the case back to the lower District Court with direction to add an objective timetable for faculty desegregation into the plan. Circuit Court Judges Sobeloff and Winter agreed with sending the case back on the teacher issue, but otherwise disagreed, expressing concern over whether freedom of choice plans could end dual school systems. Judge Sobeloff wrote that the District Court should set up procedures to periodically evaluate the plan's effectiveness in eliminating all features of the segregated school system. Siding with the earlier Fifth Circuit Court of Appeals opinion and its condemnation of the *Briggs* Dictum, Judge Sobeloff questioned freedom of choice as a means to an end:

> "Freedom of choice" is not a sacred talisman; it is only a means to a constitutionally required end—the abolition of the system of segregation and its effect. If the means prove effective, it is acceptable, but if it fails to undo segregation, other means must be used to achieve this end. The school officials have the continuing duty to take whatever action may be necessary to create a "unitary, non-racial system."[35]

Furthermore, the judges noted that the school board could easily end the dual system by geographic zoning, whereby students living in the eastern half of the county would attend the New Kent School and those living in the western half of the county would attend the Watkins School. While Judges Sobeloff and Winters were in the minority opinion, the U.S. Supreme Court would agree with their findings and confirm Judge Wisdom's 1966 decision in *United States v. Jefferson County Board of Education.*

*Green v. County School Board* proceeded to the U.S. Supreme Court along with two companion cases: *Monroe v. Board of Commissioners of the City of Jackson, Tennessee* and *Raney v. the Board of Education of the Gould School District* in Arkansas.[36] The *Green* case was typical of the findings of the U.S. Commission on Civil Rights that cast doubt on the effectiveness of freedom of choice plans in integrating schools. After three years of the freedom of choice plan in New Kent County, no whites attended Watkins and 155 blacks attended New Kent, leaving 85 percent of blacks in the system at Watkins.

In their lawsuit, the black plaintiffs argued that the freedom of choice plan in practice operated to perpetuate the racially dual school system formerly mandated by state law. Petitioners suggested that the School Board could immediately dismantle the dual system by consolidating the two schools with one school serving grades 1-7 and the other serving grades 8-12; a system made more efficient by eliminating costly duplication. The respondent school board argued that blacks wanted their own school to serve as a sort of community center and, under the

*Briggs* Dictum, *Brown* had never required compulsory integration; only that states had to "take down the fence" keeping students apart.[37]

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[34] In 1965, Ms. Cynthia Gaines transferred under freedom of choice in the 8th grade from Watkins to New Kent. She noted differences in equality between the two schools in equipment and curriculum. New Kent had better textbooks and more microscopes than Watkins, and the 8th grade at Watkins had a citizenship class, while the 8th grade at New Kent had a history class. Personal interview, November 6, 2000.

[35] 382 F.2d 326 (1967), at 332-33.

[36] The *Monroe* case involved 13 schools in the Jackson, Tennessee school system. In the *Raney* case, the Gould Special School District contained the Gould School, which was the white school complex and the Field School which was the black school complex. For a more detailed description of the cases see Kurland, *Landmark Briefs and Arguments of the Supreme Court*, 24-25, 51-53, 231. The *Green* case went to the Supreme Court, rather than the *Bowman* case, because *Green* was the simpler of the two cases, personal interview with Dr. Calvin Green, November 6, 2000.

[37] Wilkinson, *From Brown to Bakke,* 115.

In its amicus brief, the United States agreed with the lower court that a strict geographic assignment policy (without the right of free transfer) would desegregate the schools and that freedom of choice plans would satisfy the State's obligation only if they are part of a comprehensive program which actually achieves desegregation.[38] Also relying on earlier lower court decisions, the brief noted that it was the duty of school authorities to convert from "a dejure segregated dual system to a unitary, nonracial (nondiscriminatory) system—lock, stock, and barrel: students, faculty, staff, facilities, programs and activities"[39] and to "terminate the racial identification of particular schools as "Negro" schools or "white" schools.[40] The government stance relied on earlier U. S. Commission on Civil Rights findings on the pitfalls of freedom of choice:

> The reality is that a variety of more subtle influences—short of outright intimidation—tend to confine the Negro to his traditional school. Insecurity, fear, founded or unfounded, habit, ignorance, and apathy, all inhibit the Negro child and his parents from the adventurous pursuit of a desegregated education in an unfamiliar school, where he expects to be treated as an unwelcome intruder. And corresponding pressures operate on the white students and their parents to avoid the "Negro" school.[41]

On April 4, 1968, the day after the Court heard the oral argument in the *Green* case, Martin Luther King was assassinated and the nation experienced its worst period of racial rioting during the weeks when the justices deliberated on the issue.[42] In its decision, handed down on May 3, 1968, the U.S. Supreme Court stated the question to be answered was "whether the Board achieved the 'racially nondiscriminatory school system' *Brown II* held must be effectuated in order to remedy the established unconstitutional deficiencies of its segregated system."[43]

The Court found that the county had been operating a dual system of schools as ruled unconstitutional in *Brown*, down to "every facet of school operations – faculty, staff, transportation, extracurricular activities and facilities."[44] Its 1954-55 desegregation decisions put an "affirmative duty" on school boards to abolish dual schools and to establish "unitary" systems. It disapproved the county's "freedom-of-choice" school plan, but did not totally dismiss this type of plan in every case.[45]

The court stated that the board had to "convert promptly to a system without a 'white' school and a 'Negro' school, but just schools" and to eliminate racial discrimination 'root and branch.'"[46] Rational for the Court's decision were the factors identified in the U.S. Commission on Civil Rights reports that made freedom of choice unlikely to work—fear of hostility or retaliation to those electing to change schools, undue influence by public officials and private parties, ancillary effects of poverty, and unequal facilities between schools. Even though the Supreme Court did not expressly rule out the use of freedom of choice plans, the effect of the *Green*

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[38] *Green v. County School Board of New Kent County,* October term, 1967, No. 695, Memorandum for the United States as Amicus Curiae, in Kurland, *Landmark Briefs and Arguments of the Supreme Court of the United States,* 161-162.
[39] Ibid. 163, quoted from *United States v. Jefferson County Board of Education,* 372 F.2d 836 (1966).
[40] Ibid. 164.
[41] Ibid. 167. A founded fear was loss of jobs. Mary Green alleged that her teaching contract was not renewed for the 1965-66 school year by the New Kent County School Board because of her race and the fact that she was a plaintiff in the *Green* case along with three of her children. "Reinstate Job, Negro Teacher Asks in Suit," Richmond News Leader, May 5, 1966, n.p.
[42] Raymond Wolters, *The Burden of Brown: Thirty Years of School Desegregation* (Knoxville: The University of Tennessee of Press, 1984), 277.
[43] *Green v. County School Board*, 391 U.S. 430 (1968), at 437.
[44] Ibid., 435.
[45] On the same day, the Supreme Court held ineffective the freedom of choice plan in *Raney* and the free-transfer plan in *Monroe* to reemphasize the obligation of school boards to move forward with integration plans that promised "realistically to work now."
[46] Ibid., 441, 438.

decision was to do so, since freedom of choice plans did not result in a prompt conversion to a unitary system. Following the decision, Jack Greenberg, Special Counsel of the NAACP Legal Defense and Educational Fund, which had taken the cases to court, said his organization would immediately reopen most of its pending 200 school desegregation cases in the South.[47]

## Conclusion

In a series of litigation extending from 1954-1971, the concept of removing discrimination was transformed into the present constitutional doctrine requiring racial balancing to desegregate school systems and the abolition of white and black schools. The keystone case was *Green v. County School Board;* a case that was a watershed in the definition—or redefinition—of the substantive right enshrined in *Brown I*.[48] Thus, the *Brown* opinion which "had previously been understood to forbid pupil assignment on the basis of race paradoxically became the rationale for requiring assignment on the grounds of race."[49] It released black children from "the onus of achieving integration and threw it squarely—*affirmatively*—onto the backs of the local school boards."[50]

Finally, the *Green* decision supplied the much-needed solution to dismantling a dual school system. This remedy to desegregation went beyond student assignment to address all facets of school operation that were racially identifiable including faculty, staff, facilities, transportation, and extracurricular activities. Together these facets became known as the six "*Green* factors" that a school district had to address in its desegregation plan in order to attain "unitary" status.[51]

Scholars agree as to *Green's* historic place in school desegregation and constitutional standards that "triggered a major change in the nature and pace of desegregation in the South."[52] It was cited as "a watershed case not because of what was said but because the Supreme Court said it."[53] If previous years had offered "absolute defiance" and, at best, "token compliance" and "modest integration," the Supreme Court's 1968 decision in *Green* inaugurated the era of "massive integration."[54]

Other scholars place *Green* on level with the U.S. Supreme Court landmark *Brown* decision:

> From the standpoint of those who believed that the Brown mandate could not be implemented unless public schools were rendered nonidentifiable by race, the Court's 1968 decision in Green v. County School Board of New Kent County is considered as important a victory as was Brown.[55]

> The history of the law of race and the schools since *Brown* is, in a word, the history of the Supreme

[47] Hamilton Crockford, "New Kent School Plan Is Nullified" Richmond Times Dispatch, May 28, 1968, A-1, quote on A-2.
[48] Mark G. Yudof, David L. Kirp, Tyall van Geel, and Betsy Levin. *Kirp and Yudof's Educational Policy and the Law,* 2d ed. (Berkeley: McCutchan Publishing Corporation, 1962), 502; Armor, *Forced Justice,* 28; and Hall, *The Oxford Companion to the Supreme Court of the United States*, 347.
[49] Wolters, *Burden of Brown*, 274-75
[50] Wilkinson, *From Brown to Bakke*, 116.
[51] Armor, *Forced Justice*, 29.
[52] Yudof, *Kirp and Yudof's Educational Policy and the Law*, 482.
[53] Wilkinson, *From Brown to Bakke*, 117.
[54] U.S. Commission on Civil Rights findings in 1975 that school desegregation had progressed substantially in the South but minimally in the North. In the South, the proportion of black pupils attending predominantly white schools had increased from less than 19 percent in 1968 to more than 46 percent in 1972. In the North the proportion of black pupils attending predominantly white schools had increased less than 1 percent between 1968 and 1972. In 1972 more than 71 percent of black pupils continued to attend predominantly minority schools. U.S. Commission on Civil Rights, *Twenty Years After Brown*, 88.
[55] Derrick Bell, *Race, Racism and American Law*, 3rd ed. (Boston: Little, Brown and Company, 1992), 252.

> Court's conversion of *Brown's* prohibition of segregation into a requirement of integration. Although *Green* is much less well known than *Brown*, and current disputes on race and the schools continue to be stated as if the *Brown* issue were still involved, it is *Green*, not *Brown*, that is the source of these disputes.[56]

The New Kent and Watkins Schools are nominated under Criterion 1 and Exception 8, as milestones in the history of school desegregation for their association with the U.S. Supreme Court's decision in *Green v. Board of Education.* For a little over a decade following the *Brown* decision, the courts had struggled to determine remedies to alleviate unconstitutional school segregation. Accepted court remedies were those whereby school systems established neutral admission policies that were not racially based. Upon the realization that these policies produced token compliance, some federal courts questioned their ability to produce a non-segregated unitary system. It was in *Green v. County School Board* that the U.S. Supreme Court announced the duty of school boards to affirmatively eliminate all vestiges of State-imposed segregation and thus changed school attendance from prohibiting segregation to requiring integration.

## Property Comparison

Besides the New Kent County schools, one other property associated with the *Green* decision was where the African American community met to discuss the case. This building does not the possess the ability to interpret the school desegregation conditions and issues surrounding the schools that were of importance in the Court's decision. No other buildings in New Kent County are associated with this case.

Also considered for property comparison, were the two cases the U.S. Supreme Court heard the same day as *Green*. These cases included *Raney v. Board of Education of the Gould School District* and *Monroe v. Board of Commissioners of the City of Jackson, Tenn.* In reaching its decision on the same day for all three cases, the Court used the principles defined first in the *Green* case as guidance in determining whether the school districts in the *Raney* and *Monroe* cases had achieved a racially nondiscriminatory system. Therefore, the Court's mandate to integrate schools came from the *Green* case. Subsequent scholarly work in the history of school desegregation refers only to the *Green* decision.

Both the New Kent School and the George W. Watkins School are important in illustrating the significance of the Supreme Court's deliberation and decision. During deliberation, the schools portrayed an example of a state-maintained dual school system in every facet of its operation. In the decision, the court determined that there should not be a white or a black school, but just schools.

[56] Graglia, "From Prohibiting Segregation to Requiring Integration," 69, 75.

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Previous documentation on file (NPS):

__ Preliminary Determination of Individual Listing (36 CFR 67) has been requested.
__ Previously Listed in the National Register.
__ Previously Determined Eligible by the National Register.
__ Designated a National Historic Landmark.
__ Recorded by Historic American Buildings Survey: #
__ Recorded by Historic American Engineering Record: #

Primary Location of Additional Data:

__ State Historic Preservation Office
__ Other State Agency
__ Federal Agency
__ Local Government
__ University
__ Other (Specify Repository):

## 10. GEOGRAPHICAL DATA

Acreage of Property: New Kent: 9 acres
Watkins: 10 acres

| UTM References: | Zone | Easting | Northing |
|---|---|---|---|
| New Kent: | 18 | 324950 | 4153720 |
| Watkins: | 18 | 314560 | 4155460 |

Verbal Boundary Description:

The boundary description for New Kent is parcel 24-9 contained on Tax Map Section 24
The boundary description for Watkins is parcel 21-52 contained on Tax Map Section 21.

Boundary Justification:

These boundaries include the land historically associated with the schools and the buildings which maintain integrity from the period of significance.

## 11. FORM PREPARED BY

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DESIGNATED A NATIONAL HISTORIC LANDMARK ON
AUGUST 7, 2001