

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

1. On April 9, 2015, during a regular meeting of the Arkansas State Board of Education (State Board), the State Board conducted a hearing for the purpose of considering the involuntary administrative consolidation of the Hughes School District of St. Francis County with one (1) or more school districts.

2. The School Board Presidents and Superintendents of the following school districts were notified of the hearing by regular U.S. mail, certified mail, and electronic mail on March 12, 2015¹:

- a. Hughes School District;
- b. Brinkley School District;
- c. Earle School District;
- d. Forrest City School District;
- e. Lee County School District;
- f. Marion School District;
- g. McCrory School District;
- h. Palestine-Wheatley School District;
- i. West Memphis School District; and
- j. Wynne School District.

3. Representatives from the Hughes School District appeared at the hearing.

4. The State Board conducted the hearing pursuant to the legal authority and jurisdiction vested in the State Board by Ark. Code Ann. §§ 6-11-105, 6-13-1601 et seq., 6-13-1401 et seq. and the Arkansas Department of Education Rules Governing the Consolidation and Annexation of School Districts.

FINDINGS OF FACT

5. Ark. Code Ann. § 6-13-1602(1) requires the Arkansas Department of Education (ADE) to publish a list of all school districts with fewer than three hundred fifty (350) students according

¹ The Brinkley, McCrory, and Palestine-Wheatley school districts were notified in error. None of those school districts is contiguous with the Hughes School District.

to the school district average daily membership in the school year immediately preceding the current school year.

6. For the 2012-2013 school year, the Hughes School District had an average daily membership of 348.07 students.

7. On August 7, 2013, the ADE notified the Hughes School District of its placement on the list in accordance with Ark. Code Ann. § 6-13-1602(1). On August 9, 2013, the ADE included the Hughes School District on a list published by way of Commissioner's Memo COM-14-005 in accordance with Ark. Code Ann. § 6-13-1602(1).

8. Ark. Code Ann. § 6-13-1602(2) requires the ADE to publish a consolidation list of all school districts with fewer than three hundred fifty (350) students according to the school district average daily membership in each of the two (2) school years immediately preceding the current school year.

9. For the 2013-2014 school year, the Hughes School District had an average daily membership of 344.52 students.

10. On July 18, 2014, the ADE notified the Hughes School District of its placement on the list in accordance with Ark. Code Ann. § 6-13-1602(2). On July 22, 2014, the ADE included the Hughes School District on a list published by way of Commissioner's Memo COM-15-010 in accordance with Ark. Code Ann. § 6-13-1602(2).

11. According to information maintained by the ADE, the Hughes School District and West Memphis School District are not subject to desegregation orders.

12. On February 26, 2015, the Hughes School District submitted a petition for voluntary administrative annexation into the Forrest City School District. However, on March 7, 2015, the Forrest City School District withdrew from its participation in the petition.

13. On April 7, 2015, the Hughes School District submitted a "Petition for Act 377 of 2015 Waiver" for consideration by the State Board.

CONCLUSIONS OF LAW AND ORDER

14. Pursuant to Ark. Code Ann § 6-13-1603(a)(1), any school district that appears on the ADE's consolidation list under Ark. Code Ann. § 6-13-1602(2), may voluntarily agree to administratively consolidate with, or be annexed to, another school district or districts in accordance with the requirements and limitations of Ark. Code Ann. § 6-13-1603.

15. Any school district on the consolidation list choosing to voluntarily administratively consolidate or annex shall submit a petition for approval to the State Board by March 1 immediately following publication of the list. (Ark. Code Ann. § 6-13-1603(a)(2)). As noted above, while the Hughes School District submitted a petition for voluntary administrative

annexation into the Forrest City School District, the Forrest City School District withdrew from its participation in the petition.

16. Any school district on the consolidation list that does not submit a voluntary petition for annexation or consolidation shall be administratively consolidated by the State Board with or into one (1) or more school districts by May 1, to be effective July 1 immediately following the publication of the list required under Ark. Code Ann. § 6-13-1602(2). (Ark. Code Ann. § 6-13-1603(a)(3)).

17. Pursuant to Ark. Code Ann. § 6-13-1603(a)(3)-(4), the State Board must administratively consolidate the Hughes School District with or into one (1) or more school districts by May 1, 2015, to be effective by July 1, 2015. The State Board must take this action in order to enable the affected school districts to reasonably accomplish any resulting administrative consolidation by July 1, 2015.

18. Act 377 of 2015 allows a school district on the consolidation list to “annually request a waiver from the average daily membership requirement of three hundred fifty (350) students from the State Board of Education.” The State Board shall grant the waiver if the school district demonstrates that it “is not currently classified in academic distress, fiscal distress, or facilities distress.” Act 377 of 2015 does not apply to the Hughes School District because the Hughes School District is currently classified in fiscal distress.² Specifically:

a. On February 19, 2013, the ADE identified the Hughes School District as a school district in fiscal distress due to material state or federal audit exceptions or violations.

b. The Hughes School District did not appeal the identification of fiscal distress.

c. On April 8, 2013, the State Board classified the Hughes School District as a district in fiscal distress.

19. The Hughes School District’s “Petition for Act 377 of 2015 Waiver” is denied.

20. The Hughes School District, together with its territory, is hereby administratively consolidated with the West Memphis School District.

21. The consolidation shall be effective on July 1, 2015. As of that date, the Hughes School District shall be dissolved and the resulting West Memphis School District shall be established.

² Act 377 of 2015, which became effective on March 11, 2015, requires a school district on the consolidation list to submit a petition for a waiver to the State Board no later than thirty (30) days after the consolidation list is published. As noted in paragraph 10, the State Board published the consolidation list regarding the Hughes School District on July 22, 2014. Laws of the General Assembly are not typically given retroactive effect. It appears that the Hughes School District’s petition, filed on April 7, 2015, was untimely.

22. The administrative consolidation of the Hughes School District, as set forth above, will create a resulting district with an average daily membership exceeding three hundred fifty (350) students.
23. The resulting West Memphis School District shall have no more than one (1) superintendent.
24. In the resulting West Memphis School District, the millage rate shall be determined as set forth in Ark. Code Ann. § 6-13-1409.
25. The assets and liabilities of the Hughes School District shall be assigned as set forth in Ark. Code Ann. § 6-13-1407. Specifically, the real property, personal property, and equipment of the Hughes School District shall be distributed to the resulting West Memphis School District.
26. Pursuant to Ark. Code Ann. § 6-13-1603(k) and Ark. Code Ann. § 6-13-1415(d)(2), the existing board of directors of the West Memphis School District shall serve as the interim school board of directors for the resulting West Memphis School District.
27. The resulting West Memphis School District shall form a permanent board of directors pursuant Ark. Code Ann. § 6-13-1603(k) and Ark. Code Ann. § 6-13-1417.
28. The ADE, on behalf of the State Board, shall file this order with:
 - (a) The county clerks of each county that contains school district territory of the Hughes School District and West Memphis School District;
 - (b) The Arkansas Secretary of State; and
 - (c) The Arkansas Geographic Information Office.
29. Pursuant to Ark. Code Ann. § 6-13-1404, the county clerks of each county that contains school district territory of the Hughes School District and West Memphis School District shall make permanent records of this order in their respective offices.
30. The ADE, on behalf of the State Board, shall make changes to the maps of the school districts to properly show the boundary lines of the resulting school district.

IT IS SO ORDERED.

SIGNED AND EXECUTED by the undersigned Chair of the Arkansas State Board of Education on this 20th day of April, 2015.

//Signed/

Mr. Samuel Ledbetter, Chair
Arkansas State Board of Education