

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

ORDER OF CREATION OF THE
JACKSONVILLE / NORTH PULASKI SCHOOL DISTRICT

On November 13, 2014, during a regular meeting of the Arkansas State Board of Education ("State Board"), the State Board heard and considered the creation of the Jacksonville / North Pulaski School District ("JNPSD"). Mr. Patrick Wilson, Wright, Lindsey & Jennings LLP, appeared on behalf of various interested citizens and groups from the Jacksonville / North Pulaski areas. Mr. Allen P.

Roberts appeared on behalf of the Pulaski County Special School District ("PCSSD").

FINDINGS OF FACT

1. On July 8, 2013, leaders in the effort to form JNPSD presented to the State Board their petition for detachment. After some discussion and questions from the State Board to both Mr. Wilson and ADE's counsel, the State Board voted unanimously that the petition was valid, as contemplated by Ark. Code Ann. § 6-13-1504.

2. As required by Ark. Code Ann. § 6-13-1504, the State Board then sought an advisory opinion from the Attorney General concerning the impact of the proposed detachment and creation of a new school district on the effort of the state to assist the affected school district or districts in the desegregation of the public schools of this state. The Attorney General provided that advisory opinion by its letters dated August 26, 2013 and February 27, 2014. Those letters are attached. (Attachment 1).

3. On January 13, 2014, the presiding federal judge in the desegregation case involving PCSSD and other parties approved a settlement agreement that permitted the State of Arkansas to immediately authorize the creation of JNPSD consistent with state law.

4. On March 20, 2014, leaders in the effort to form JNPSD appeared before the State Board and asked that it order an election on the proposition of detachment, to be held at the next annual school election or general election. The State Board then voted unanimously to order that election and issued and certified a detachment order setting the election on the question of detachment for

September 16, 2014. That order is attached. (Attachment 2).

5. At the election on September 16, 2014, a majority of the votes were cast for the proposition of detachment. Specifically, on the question of detachment of territory from the PCSSD to form the JNPSD, 95% of the votes were cast for the proposition of detachment and 5% of the votes were cast against that proposition. A copy of the Certification of Election Results is attached. (Attachment 3).

CONCLUSIONS

6. All of the requirements of Title 6, Chapter 13, Subchapter 15 are met and a majority of the votes were cast for the proposition of detachment.

Accordingly, pursuant to Ark. Code Ann. § 6-13-1505, the State Board hereby orders the creation of the JNPSD, subject to the transition provisions set out in paragraphs 8-13 of this Order.

7. Further, as required by Ark. Code Ann. § 6-13-1505, and based on the recommendations of the committee appointed by the State Board, the State Board hereby appoints the following as the initial Board of Directors of the JNPSD:

1. Norris Cain
2. Daniel Gray
3. Ron McDaniel
4. Carol Miles
5. Richard Moss
6. Robert Price
7. LaConda Watson

These directors shall serve until the next regular election of members, when a board of directors shall be elected in compliance with Arkansas law.

8. Pursuant to Ark. Code Ann. § 6-13-1505, the State Board recognizes that PCSSD and/or JNPSD shall petition the court having jurisdiction in the desegregation matter to obtain any and all court orders or other relief necessary to ensure that the detachment will not cause the state or any affected school district to be in violation of any orders of the court or any consent orders or decrees entered into by the parties with regard to the desegregation plan, and to enable the State Board to proceed with consideration of entry of the order mentioned in paragraph 11 of this order.

9. As permitted by Ark. Code Ann. § 6-13-1505 and Section 6.06 of the Arkansas Department of Education Emergency Rules Governing the Creation of School Districts By Detachment ("Emergency Rules"), JNPSD shall be in a transition period during which JNPSD shall continue under the administration of PCSSD. During the transition period, all revenue pertaining to the JNPSD shall continue to be remitted to the PCSSD and the PCSSD shall be responsible for paying all costs

associated with the JNPSD. The duration of the transition period shall be at the discretion of the State Board, but shall not exceed two consecutive years from the date of this order.

10. Not later than one hundred and twenty (120) days after receiving the necessary court orders from the court having jurisdiction over the Pulaski County Desegregation Case, PCSSD and JNSPD shall jointly submit to the State Board an agreed upon plan that addresses the following issues, without limitation:

1. A plan for the selection and employment of a superintendent or administrator for JNSPD.
2. A plan for the zoning and election of school board members in September 2015 in accordance with Arkansas and federal law.
3. A determination of the millage necessary to operate JNSPD.
4. A plan that specifically addresses the distribution of real and personal property, assets, liabilities (including debt), duties and responsibilities for the PCSSD and JNSPD.
5. A plan that specifically addresses the procedure by which the JNSPD will employ licensed and nonlicensed staff.

11. In the event that the PCSSD and the JNSPD are unable to agree upon any issue regarding the formation of a written agreement concerning detachment or upon the implementation of the final determination of the State Board concerning detachment, the school districts shall:

1. Jointly petition the Commissioner of Education or his or her designee to resolve the matter subject to final determination by the State Board as set forth in Section 7.05 of the Arkansas Department of Education Emergency Rules Governing the Creation of School Districts by Detachment;
2. Jointly select a mediator to mediate the matter subject to final determination by the State Board as set forth in Section 7.05 of the Arkansas Department of Education Emergency Rules Governing the Creation of School Districts by Detachment; or
3. Jointly petition the State Board to resolve the matter in accordance with Section 7.05 of the Arkansas Department of Education Emergency Rules Governing the Creation of School Districts by Detachment.


4. In the absence of an agreement regarding any of the issues listed in Paragraph 10 of this order, the matter will proceed directly to the State Board for resolution in accordance with Section 7.05 of the Arkansas Department of Education Emergency Rules Governing the Creation of School Districts by Detachment.

12. Following the petition and any order by the court in the desegregation matter, as per paragraph 8 of this order, the State Board anticipates entering a future order or orders addressing the transfer of any assets, territory, property, liabilities, duties, or responsibilities between the PCSSD and JNPSD and the initial JNPSD board of directors. Pending the issuance of such future order or orders from the State Board, PCSSD shall remain responsible for the delivery of all educational, administrative, and financial services to JNPSD.

13. The State Board specifically retains jurisdiction to enter additional orders or modify orders during the transition period as circumstances and the law may warrant.

IT IS SO ORDERED.

SIGNED AND EXECUTED by the undersigned Chair of the Arkansas State Board of Education on this 13TH day of November, 2014.


Mr. Samuel Ledbetter, Chair
Arkansas State Board of Education



THE ATTORNEY GENERAL
STATE OF ARKANSAS
DUSTIN McDANIEL

Warren T. Readnour
Senior Assistant Attorney General

Direct dial: (501) 682-2016
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August 26, 2013

Dr. Tom Kimbrell
Commissioner of Education
Arkansas Department of Education
4 State Capitol Mall
Little Rock, Arkansas 72201-1019

Re: Proposed Creation of Jacksonville/North Pulaski School District by Detachment

Dear Dr. Kimbrell:

This is in response to your recent letter to Attorney General McDaniel, in which you ask for our advice, pursuant to Ark. Code Ann. § 6-13-1504, concerning the desegregation effects of the proposed creation of a new Jacksonville/North Pulaski School District by detachment from the existing Pulaski County Special School District (PCSSD). Section 6-13-1504(b)(2)(B) provides that, prior to the entry of any order for election on the question of detachment, "the state board shall seek an advisory opinion from the Attorney General concerning the impact of the proposed detachment and creation of a new school district on the effort of the state to assist the affected school district or districts in the desegregation of the public schools of this state."

There is ongoing litigation and there are pending desegregation orders affecting the Little Rock (LRSD), North Little Rock (NLRSD) and Pulaski County Special School Districts (PCSSD) (*Little Rock School District, et al. v. Pulaski County Special School District, et al.*, Case No. 4:82-cv-866, United States District Court—Eastern District of Arkansas). Pursuant to court orders in that case, the geographic boundaries of the PCSSD may not be changed, absent court approval, until the PCSSD has achieved unitary status. As of today the PCSSD has not achieved unitary status; therefore, court approval is required to alter the district's geographic boundaries.

This office has a longstanding policy against issuing opinions on matters that are the subject of pending litigation. The impact, if any, of the proposed detachment on desegregation

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**DETACHMENT ORDER
ATTACHMENT 1 - 1**

Dr. Tom Kimbrell
August 26, 2013
Page 2

efforts of the PCSSD is an issue for the federal court. Because no decision from the federal court has yet been obtained, the Board may wish to consider delaying entry of an order for election until the petitioner's have obtained the necessary approval from the district court.

Sincerely,



WARREN T. READNOUR
Senior Assistant Attorney General



STATE OF ARKANSAS
THE ATTORNEY GENERAL
DUSTIN MCDANIEL

RECEIVED
COMMISSIONER'S OFFICE
MAR 5 2014

DEPARTMENT OF EDUCATION

February 27, 2014

Dr. Tom Kimbrell
Commissioner of Education
Arkansas Department of Education
4 State Capitol Mall
Little Rock, Arkansas 72201-1019

Re: Proposed Creation of Jacksonville/North Pulaski School District by Detachment

Dear Dr. Kimbrell:

On July 10, 2013, you wrote to this office asking for "an advisory opinion from the Attorney General concerning the impact of the proposed detachment and creation of a new school district on the effort of the state to assist the affected school district or districts in the desegregation of the public schools of this state" pursuant to Ark. Code Ann. § 6-13-1504. In particular, you were inquiring about a petition and feasibility study presented to the State Board of Education by a community group from Jacksonville, Arkansas.

We responded to your letter on August 26, 2013, noting the ongoing litigation and pending desegregation orders affecting the Little Rock (LRSD), North Little Rock (NLRSD) and Pulaski County Special School Districts (PCSSD) (*Little Rock School District, et al. v. Pulaski County Special School District, et al.*, Case No. 4:82-cv-866, United States District Court—Eastern District of Arkansas). We also noted that pursuant to court orders in that case, the geographic boundaries of the PCSSD could not be changed, absent court approval, until the PCSSD has achieved unitary status. As of the date of our prior letter the PCSSD had not achieved unitary status and, therefore, court approval was required to alter the district's geographic boundaries.

Given our office's longstanding policy against issuing opinions on matters that are the subject of pending litigation and the deep legal and factual complexity surrounding the question, we declined to opine on the potential impact of a new Jacksonville school district on the state's efforts to assist the PCSSD and other affected school districts on attaining unitary status. We did note that court approval would likely be required before any such district could be created. Since our last letter significant changes have occurred and we are writing to update you on those changes.

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DETACHMENT ORDER
ATTACHMENT 1 - 3

As you are aware, the State recently entered a settlement agreement with the parties to the Little Rock Desegregation case. The settlement agreement included the following paragraph:

E. Jacksonville/North Pulaski Area School District

1. The State and the Districts agree that the State may immediately authorize the creation of a Jacksonville/North Pulaski area school district consistent with state law. Any successor district or newly created school district in Pulaski County shall be considered a party to and bound by this Agreement. The State and the Districts do not object to the creation of a Jacksonville/North Pulaski area school district. The State will oppose the creation of any other school districts from PCSSD's territory until PCSSD is declared fully unitary and is released from federal court supervision.

This provision provides the State Board with the authority to approve the creation of a Jacksonville/North Pulaski school district. By agreeing to this provision all parties to the case have agreed that the State Board's approval of this district will not have a negative impact on the desegregation of the PCSSD. It should also be noted that acceptance of this agreement by the Court means that the LRSD and the NLRSD will be dismissed from the case and will have no other desegregation obligations. Thus, there will be no negative impact to the desegregation of the LRSD or NLRSD. We are not aware of any other districts that are subject to desegregation orders that may be negatively impacted by the creation of a Jacksonville/North Pulaski school district. We also note that the supporters of a Jacksonville/North Pulaski school district have expressed an intent to be bound by the desegregation obligations of the PCSSD that remain at the time of detachment of the Jacksonville/North Pulaski school district if that occurs.

Our previous letter suggested that the State Board may wish to delay entry of an order for election until the petitioners had obtained the necessary approval from the district court. The acceptance of the settlement agreement has provided the approval for the State Board to proceed. Therefore, it is no longer necessary for the State Board to wait for any further federal court guidance. We express no opinion on whether any other parties may or may not need federal court approval to proceed with any other aspect of the proposed Jacksonville/North Pulaski school district.

Sincerely,



Dustin McDaniel
Attorney General

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

On March 20, 2014, during a regular meeting of the Arkansas State Board of Education (“State Board”), the Jacksonville Education Foundation and other Jacksonville area supporters requested that the State Board order an election on the proposed detachment of territory from the existing Pulaski County Special School District to form the Jacksonville/North Pulaski School District.

FINDINGS OF FACT

1. On July 8, 2013, during a regular meeting of the Arkansas State Board of Education (State Board), the State Board reviewed and declared valid a Petition for Detachment from the Pulaski County Special School District to form the Jacksonville/North Pulaski School District (Petition) filed by the Jacksonville Education Foundation and other Jacksonville area supporters.
2. The Petition states the purpose for which the petition is being submitted, to detach territory from the existing Pulaski County Special School District and create from that territory the new Jacksonville/North Pulaski School District.
3. The Petition contains a map of the proposed new school district.
4. The Petition contains an independent feasibility study stating:
 - a. The cost of operation of the new school district and the ability to operate the new school district taking into consideration the tax base, debt service, and division of assets to the new school district;
 - b. The size of the new school district; and
 - c. The effect of detachment on court-ordered desegregation.
5. The supporters of the proposed district submitted 2,079 verified signatures. Therefore, the Petition is signed by at least ten percent (10%) of the number of voters in the area proposed for detachment who voted in the most recent general election.
6. Based upon information currently available, the new school district will be created in an area with four thousand (4,000) or more students in average daily membership.
7. Should the detachment be approved, the existing Pulaski County Special School District will not be reduced by means of detachment to an area with fewer than four thousand (4,000) students in average daily membership.
8. The new school district to be created by detachment will be made up from students from the existing Pulaski County Special School District.

9. The most recent three quarter average daily membership of the existing Pulaski County Special School District is 16,724.10.
10. The existing Pulaski County Special School District encompasses a total area of seven hundred and thirty (730) square miles.
11. The State Board sought an advisory opinion from the Arkansas Attorney General concerning the impact of the proposed detachment and creation of a new school district on the effort of the state to assist the affected school district or districts in the desegregation of the public schools of this state.
12. On January 13, 2014, the presiding federal judge in the Pulaski County Desegregation Case approved a settlement agreement that permitted the State of Arkansas to immediately authorize the creation of a Jacksonville/North Pulaski School District consistent with state law.
13. On February 27, 2014, the Arkansas Attorney General opined that the acceptance of the desegregation settlement agreement by the presiding federal judge on January 13, 2014, "has provided the approval for the State Board to proceed" with the proposed detachment.

CONCLUSIONS OF LAW

14. The proposed detachment meets the requirements of Ark. Code Ann. § 6-13-1502.
15. The Petition is valid as set forth in Ark. Code Ann. § 6-13-1504(a)(2) and as determined by the State Board on July 8, 2013.
16. Upon the advice of the Arkansas Attorney General and approval of the presiding federal judge in the Pulaski County Desegregation case, the requirements set forth in Ark. Code Ann. § 6-13-1504(b) are satisfied.

ORDER

17. Pursuant to Ark. Code Ann. § 6-13-1504, the State Board hereby orders an election on the proposition of detachment to be held at the next annual school election on September 16, 2014.
18. On behalf of the State Board, the Arkansas Department of Education shall include with this Order a map of the proposed new Jacksonville/North Pulaski School District.
19. On behalf of the State Board, the Arkansas Department of Education shall certify four (4) copies of this order and convey: one (1) copy to the Pulaski County Clerk and one (1) copy to the Pulaski County Election Commission; and one (1) copy to the Lonoke County Clerk and one (1) copy to the Lonoke County Election Commission, at least sixty (60) days prior to the date the Pulaski County and Lonoke County Election Commissions set for election on the question of detachment.

IT IS SO ORDERED.

SIGNED AND EXECUTED by the undersigned Chair of the Arkansas State Board of Education
on this 28 day of March, 2014.

Ms. Brenda Gullett Chair

Ms. Brenda Gullett, Chair
Arkansas State Board of Education

CERTIFICATION OF ELECTION RESULTS
Pulaski County, Arkansas

We, the County Board of Election Commissioners, within and for Pulaski
County, Arkansas, do find and hereby certify the abstract of votes cast in the

Pulaski County Special School District

for the

2014 Annual School Election

conducted September 16, 2014, as shown by the attached returns.

Witness our hands as members of the Pulaski County Board of Election
Commissioners this 26th day **September, 2014.**


Leonard A. Boyle, Sr., Chair


Kevin Gorman, Commissioner


Chris Burks, Commissioner

FILED 09/29/14 14:39:46
Larry Crane Pulaski Circuit Clerk

PCSSD

Official Results

RUN DATE:09/26/14 09:58 AM

PULASKI COUNTY, ARKANSAS
2014 ANNUAL SCHOOL ELECTION
SEPTEMBER 16, 2014

TOTAL VOTES % MI00 Election IVO Election Early Vote Absentee Provisional

Detachment from PCSSD
PROPOSED JACKSONVILLE SCHOOL DISTRICT

| | | | | | | | | | |
|--------------|-------|-------|-------|---|-------|----|---|--|--|
| Vote for One | 1 | | | | | | | | |
| FOR | 3,769 | 94.53 | 2,579 | 0 | 1,163 | 25 | 2 | | |
| AGAINST | 218 | 5.47 | 153 | 0 | 63 | 2 | 0 | | |
| Over Votes | 0 | | 0 | 0 | 0 | 0 | 0 | | |
| Under Votes | 10 | | 9 | 0 | 0 | 1 | 0 | | |

PCSSD Millage PULASKI COUNTY SCHOOL DISTRICT

| | | | | | | | | | |
|--------------|-------|-------|-------|---|-----|----|---|--|--|
| Vote for One | 1 | | | | | | | | |
| FOR | 2,713 | 68.37 | 1,801 | 0 | 858 | 53 | 1 | | |
| AGAINST | 1,255 | 31.63 | 852 | 0 | 355 | 48 | 0 | | |
| Over Votes | 0 | | 0 | 0 | 0 | 0 | 0 | | |
| Under Votes | 128 | | 88 | 0 | 39 | 0 | 1 | | |

FILED 09/29/14 14:39:52
LARRY DYER PULASKI CIRCUIT CLERK

PCSSD

Official Results

PULASKI COUNTY, ARKANSAS
2014 ANNUAL SCHOOL ELECTION
SEPTEMBER 16, 2014

RUN DATE:09/26/14 09:58 AM

| | TOTAL VOTES | % | M100 Election | IYO Election | Early Vote | Absentee | Provisional |
|--|-------------|-------|---------------|--------------|------------|----------|-------------|
| Detachment from PCSSD | | | | | | | |
| PROPOSED JACKSONVILLE SCHOOL DISTRICT | | | | | | | |
| Vote for One 1 | | | | | | | |
| FOR | 3,769 | 94.53 | 2,579 | 0 | 1,163 | 25 | 2 |
| AGAINST | 218 | 5.47 | 153 | 0 | 63 | 2 | 0 |
| Over Votes | 0 | | 0 | 0 | 0 | 0 | 0 |
| Under Votes | 10 | | 9 | 0 | 0 | 1 | 0 |
| PCSSD Millage PULASKI COUNTY SCHOOL DISTRICT | | | | | | | |
| Vote for One 1 | | | | | | | |
| FOR | 2,713 | 68.37 | 1,801 | 0 | 858 | 53 | 1 |
| AGAINST | 1,255 | 31.63 | 852 | 0 | 355 | 48 | 0 |
| Over Votes | 0 | | 0 | 0 | 0 | 0 | 0 |
| Under Votes | 128 | | 88 | 0 | 39 | 0 | 1 |