

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**LITTLE ROCK SCHOOL DISTRICT**

**PLAINTIFF**

**v.**

**No. 4:82-cv-866 BSM**

**PULASKI COUNTY SPECIAL SCHOOL  
DISTRICT NO. 1, et al.**

**DEFENDANTS**

**MRS. LORENE JOSHUA, et al.**

**INTERVENORS**

**KATHERINE KNIGHT, et al.**

**INTERVENORS**

**BRIEF IN SUPPORT OF MOTION FOR ORDER**

The Arkansas Department of Education (ADE), by and through its attorneys, Attorney General Dustin McDaniel and Assistant Attorney General Scott P. Richardson, state for their Brief in Support of Motion for Order:

On March 30, 2011, the Arkansas Department of Education sent letters to the Pulaski County School Board notifying the district's administration that it had been identified as being in fiscal distress under A.C.A. section 16-20-1904, et. seq. The PCSSD appealed that decision to the Arkansas State Board of Education ("State Board"). Ark. Code Ann. § 6-20-1905. On May 16, 2011, the State Board held a hearing to determine whether PCSSD and two other districts should remain in fiscal distress. A representative of the ADE presented to the State Board findings that PCSSD had a number of fiscal issues over the past few years that negatively impact the continuation of educational services by the district (material State fiscal audit exceptions; audit reports that found inadequate controls for reconciling bank statements and documenting funding sources for employees' salaries; misappropriation of funds; issuing blanket purchase orders exceeding the district's policy of limiting contracts to \$1,000 per vendor per month; and other issues). Exhibit A, partial transcript of May 16, 2011, State Board Meeting. The State

Board, by public vote, denied PCSSD's appeal and classified the district as in fiscal distress. *Id.* On June 10, 2011, the Arkansas Legislative Joint Auditing Committee identified significant continuing concerns regarding spending and financial management of the district.

A number of the fiscal conditions identified by the Division of Legislative Audit, several of which implicate the current Superintendent directly, have not been corrected, even though the district has been on notice of those deficiencies for some time now. The board of directors of the PCSSD is experiencing a number of problems that have eroded both their ability to address the fiscal needs of the district and the public's confidence in their decision-making ability. Some of these issues have been aired in news reports over the last several weeks. The ADE has determined that the situation in PCSSD's administration cannot be allowed to continue. For the sake of the students, parents, and staff at the district, the ADE must act to restore the public's confidence in the third largest school district in the State.

Pursuant to the authority granted to the ADE by State law, the ADE is relieving the Superintendent and Board of Directors of the Pulaski County Special School District of their authority to operate the district. This action is being taken this afternoon, Monday, June 20, 2011. Pursuant to Arkansas Code Annotated section 6-20-1909, ADE is appointing a new Superintendent, Mr. Bobby Lester, to manage the district. The appointed Superintendent will report directly to the Commissioner of Education, Dr. Tom Kimbrell. *Id.* Under Arkansas law, a district may not remain in fiscal distress for more than two consecutive school years. A.C.A. § 6-20-1908.

As the Court is aware, following the Court's entry of its Finding of Facts and Conclusions of Law on May 19, 2011, the PCSSD has filed a Notice of Appeal and joined in Little Rock School District's (LRSD) Motion to Stay the effect of the Court's Order as to the

release of State funding. PCSSD also must file this afternoon its response to the Court's Order requesting briefing on whether the M to M program funding should remain in place.

Placing the PCSSD under State control raises several significant issues related to the PCSSD's involvement in the current desegregation litigation. In short, Mr. Sam Jones's client, as of this afternoon, is no longer making decisions on its own, but is being directed by the State. This presents a potential for a conflict of interest in the management of the current litigation issues pending before this Court and the Eighth Circuit.

Given this situation, the State is seeking the Court's assistance in setting a protocol for counsel for the PCSSD to manage the litigation consistent with counsel's ethical responsibilities as well as the Attorney General's responsibilities as the State's lawyer. The State suggests that an order to the effect that appeals filed by the PCSSD will be allowed to go forward and that counsel who have served the PCSSD to date will be allowed to continue to participate in the appellate process to its conclusion and be reasonably compensated by the PCSSD in accordance with whatever contract or other arrangement that counsel had with the PCSSD prior to the action taken this afternoon.

"In fashioning and effectuating school desegregation decrees, federal courts are guided by equitable principles, and, traditionally, 'equity has been characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs.'" *Lorain NAACP v. Lorain Bd. of Educ.*, 979 F.2d 1141 (6th Cir. 1992) (quoting *Brown v. Board of Education*, 349 U.S. 294, 300, 75 S.Ct. 753, 756, 99 L.Ed. 1083 (1955) (footnote omitted)). Therefore, this Court has the authority to fashion whatever remedy it deems necessary to address the complex litigation issues that arise from State control over the PCSSD.

WHEREFORE, the State of Arkansas requests that the Court enter an order consistent with the recommendation in paragraph six of its Motion for Order, or, alternatively, an order providing terms on which counsel for PCSSD can continue in their representation of the district in this case while PCSSD remains temporarily under direct State control, and for all other relief to which it is entitled.

Respectfully submitted,

DUSTIN McDANIEL  
Attorney General

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ATTORNEYS FOR STATE OF ARKANSAS AND  
ARKANSAS DEPARTMENT OF EDUCATION

**CERTIFICATE OF SERVICE**

I hereby certify that on June 20, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which shall send notification of such filing to the following:

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I, Scott P. Richardson, Assistant Attorney General, do hereby certify that I have served the foregoing and a copy of the Notice of Electronic Filing by depositing a copy in the United States Mail, postage prepaid, on June 20, 2011, to the following non-CM/ECF participants:

Mr. Robert Pressman  
22 Locust Avenue  
Lexington, Mass. 02173

/s/ Scott P. Richardson  
SCOTT P. RICHARDSON

1 can't ignore those things. Those are the things  
2 that's a trigger of why we're here, but I think as  
3 you move forward I think we could work through those  
4 things. I think we're ready for a motion.

5 MS. GULLETT: I move that we accept the  
6 Department's recommendation to classify the Earle  
7 School District as being in fiscal distress.

8 MS. NEWTON: Second.

9 CHAIRMAN WILLIAMS: The motion has been made by  
10 Ms. Gullett and second by Ms. Newton. We're ready  
11 for discussion. All in favor?

12 (UNANIMOUS CHORUS OF "AYES")

13 CHAIRMAN WILLIAMS: Opposers?

14 (BRIEF MOMENT OF SILENCE)

15 CHAIRMAN WILLIAMS: Motion passes.

16 A-14: CLASSIFICATION OF PULASKI COUNTY SPECIAL SCHOOL DISTRICT  
17 IN FISCAL DISTRESS

18 CHAIRMAN WILLIAMS: This brings us to item A-14  
19 on the agenda. We're going to actually double-up  
20 with item A-14. We will address it first, then we'll  
21 go back and pick up item A7. Both of them are  
22 involving Pulaski County School District. So, A-14  
23 first, Classification of Pulaski County Special  
24 School District in Fiscal Distress.

25 Before we move into that one, let's take a five-

1 minute break.

2 (BREAK: 4:10-4:19 P.M.)

3 CHAIRMAN WILLIAMS: We're back in session. Any  
4 board members, if you're out there somewhere, we are  
5 ready to begin. We're at Item A-14. We're going to  
6 combine A-14 and go back and pick up A-7, which is  
7 the request for waiver days, after we conclude A-14,  
8 since they both involve Pulaski County School  
9 District. So, Item A-14, Classification of Pulaski  
10 County Special School District in Fiscal Distress.  
11 Mr. Goff. I'm sorry. Mr. Lasiter.

12 MR. LASITER: Mr. Chairman, I won't repeat the  
13 procedures that we covered last time. I'll just say  
14 that Mr. Goff will be presenting the board's  
15 information today and Mr. Sam Jones will be  
16 representing Pulaski County Special School District.  
17 Before we get started, other than the attorneys, if  
18 there are people who are going to offer testimony  
19 today they should stand to be sworn at this time.

20 CHAIRMAN WILLIAMS: Thank you.

21 MR. JONES: I don't know if any of the Pulaski  
22 witnesses will actually -- they won't testify for  
23 them, but they may answer questions. I don't know if  
24 they need to be sworn of not.

25 CHAIRMAN WILLIAMS: I'm sorry. Could you repeat

1 that? I just didn't quite hear you.

2 MR. JONES: We have several representatives from  
3 Pulaski County here. They're not scheduled to be  
4 formerly presented as witnesses, but they will likely  
5 be asked questions. I didn't know if that meant they  
6 need to be sworn or not.

7 CHAIRMAN WILLIAMS: Yes, they do need to be  
8 sworn in.

9 MR. JONES: Okay.

10 COURT REPORTER: If you'll each raise your right  
11 hand. Do you swear or affirm the testimony you're  
12 going to give today will be the truth, the whole  
13 truth and nothing but the truth?

14 (ALL WITNESSES ANSWERED AFFIRMATIVELY)

15 COURT REPORTER: Thank you.

16 MR. GOFF: Could you excuse me just one moment,  
17 Mr. Chairman.

18 CHAIRMAN WILLIAMS: Yes.

19 MR. GOFF: Okay. Mr. Chairman, I just want to  
20 be sure that the State Board did have access to an  
21 email from Sam Jones to Bill Goff, Jeremy Lasiter,  
22 dated May -- Sunday, May 15th, at 2:06 p.m., that is  
23 basically a summation of some agreements that we made  
24 in hopes of expediting today's hearing. That is on  
25 the desk and we want that to be a part of the record



1 please.

2 CHAIRMAN WILLIAMS: All right. Thank you.

3 (WHEREUPON, ADE Exhibit One (1), in the matter  
4 of A-14, was marked for identification and entered  
5 into evidence.)

6 MR. GOFF: Okay. There should be another  
7 document sent via email to Phyllis Stewart.

8 "Attached are documents that have come into existence  
9 since we submitted our Appendix on April 28." This  
10 is also from Sam Jones. So, we want to be sure the  
11 board has that document.

12 (WHEREUPON, ADE Exhibit Two (2), in the matter  
13 of A-14, was marked for identification and entered  
14 into evidence.)

15 MR. GOFF: Okay. On March 30, 2011, the  
16 Department notified Pulaski County Special School  
17 District that it had been identified as a school  
18 district in fiscal distress due to material state or  
19 federal audit exceptions or violations. Attached to  
20 this agenda item are numerous documents. What I've  
21 attempted to do with the PowerPoint presentation I'm  
22 about to deliver is to highlight information directly  
23 from those documents. The only information that I'll  
24 share that is not included in the attachments will be  
25 on the final slide marked Conclusion. And, Scott, if

1           you'll please pass out a hardcopy of those to the  
2           State Board, as well as to Mr. Jones.

3                       (WHEREUPON, ADE Exhibit Three (3), in the matter  
4           of A-14, was marked for identification and entered  
5           into evidence.)

6                       MR. GOFF: I did distribute a copy of this  
7           PowerPoint presentation to the State Board, as well  
8           as Mr. Jones last Friday, in hopes of, there again,  
9           expediting today's hearing process. I do appreciate  
10          Mr. Jones for taking time over the weekend to review  
11          that and to communicate questions and concerns he  
12          had, and I'll try to address some of those concerns  
13          as we proceed through the presentation. The letter  
14          dated March 30th, from Hazel Burnett to Dr. Charles  
15          Hopson, said that Pulaski County had been identified  
16          as a school district in fiscal distress due to acts  
17          or violations determined to jeopardize the fiscal  
18          integrity of the district, including material state  
19          or federal audit exceptions or violations, and  
20          failure to fully develop and implement adequate  
21          corrective actions. We have included the three most  
22          recent financial audits conducted by the CPA firm of  
23          Hudson and Cisne. I want to clarify that these  
24          audits are considered private audits by -- the  
25          district engages this firm to conduct the audit in

1 compliance with state and federal law. State and  
2 federal law requires that an annual financial audit  
3 be done. Districts have the option of hiring their  
4 own firm to do so or the Division of Legislative  
5 Audit will conduct the audit. Pulaski County has  
6 engaged the firm of Hudson and Cisne. We've provided  
7 information for the prior three annual financial  
8 audits, beginning with fiscal year '08 and through  
9 fiscal year '10.

10 One of the concerns that Mr. Jones had is that  
11 some of the information in these audits have already  
12 been addressed -- and I'll concede that some of them  
13 have been. Typically, when you see an audit finding  
14 one year that accounting firm will pay special  
15 attention to that issue the following year and it  
16 will either show up as a repeat finding or it will  
17 not show up, indicating that it has been adequately  
18 addressed by the district. So, when we get to the  
19 fiscal year '10 audit conducted by Hudson and Cisne,  
20 you'll see the issues outstanding as of June 30,  
21 2010, in the view of the audit firm. But let's look  
22 at what they found for the year ending June 30, 2008.  
23 Controls not in place to reconcile the bank  
24 statements in a timely manner; controls not in place  
25 to approve and document the funding source that

1 employees are paid from; the district has not  
2 segregated payroll duties among employees to provide  
3 reasonable assurance about the achievement of the  
4 entity's objectives with regard to reliable payroll  
5 preparation and authorization; the 2007-2008 annual  
6 roster of employees submitted to the federal Medical  
7 Assistance Program improperly included employees paid  
8 out of federal funding; the district issued multiple  
9 "blanket purchase orders" that exceeded the minimum  
10 required bidding amount, for which no bids were  
11 received. None of those findings were repeat  
12 findings. None of them occurred in the audit for the  
13 2006-2007 school year.

14 Moving to the June 30, 2009 audit, the district  
15 has not segregated payroll duties among employees to  
16 provide reasonable assurance about the achievement of  
17 the entity's objectives with regard to reliable  
18 payroll preparation and authorization. That is a  
19 repeat finding from the prior year. The lack of  
20 internal controls and adequate management oversight  
21 resulted in improper transactions, including the  
22 misappropriation of approximately \$440,000 by an  
23 employee in the district's Maintenance Department.  
24 Controls not in place to approve and document the  
25 funding source that employees are paid from. That is

1 a repeat finding. The district issued blanket  
2 purchase orders exceeding the district's policy of  
3 \$1,000 per vendor, per month. Travel request forms  
4 are not consistently fully completed before  
5 submission for reimbursement, with several not  
6 including all required approval signatures. The  
7 district issued multiple "blanket purchase orders"  
8 that exceeded the minimum required bidding amount,  
9 for which no bids were received and the district  
10 utilized "emergency" purchase orders for routine  
11 operating items. And that is a repeat finding.

12 Then the audit from the year ending June 30,  
13 2010. Controls not in place to reconcile the bank  
14 statements in a timely manner. That's a repeat from  
15 the fiscal year 2008 audit. The district has not  
16 segregated duties among employees to provide  
17 reasonable assurance about the achievement of the  
18 entity's objectives with regard to reliable  
19 purchasing, approving and recording. The district  
20 issued blanket purchase orders exceeding the  
21 district's policy of \$1,000 per vendor, per month,  
22 that being a repeat finding. The district has not  
23 segregated duties among employees to provide  
24 reasonable assurance about the achievement of the  
25 entity's objectives with regard to receipt of

1 funding. Controls not in place to approve and  
2 document the funding source that employees are paid  
3 from. That's a repeat from the prior two audits.

4 Then, there's a report, an investigative report  
5 conducted by the Arkansas Division of Legislative  
6 Audit dated April 28, 2010. This was reviewed by the  
7 Legislative Joint Auditing Committee on May 14, 2010.  
8 This included the time period March 1, 2004 through  
9 February 19, 2010. Page 20 of the report provides a  
10 list of the internal control deficiencies, which  
11 contributed to the misappropriation of district funds  
12 as well as potential waste and abuse of district  
13 resources. These deficiencies include the  
14 administrative staff and the board not exercising  
15 proper management fiscal oversight responsibility or  
16 providing safeguards to prevent and timely detect  
17 misappropriation of funds and potential waste and  
18 abuse of district assets; not following established  
19 district policies and procedures; not establishing a  
20 "tone at the top" that demonstrated to personnel the  
21 necessity of standards and fiscal prudence. It  
22 included district travel policies and procedures not  
23 being followed, such as expenses not always  
24 documented; unallowable expenses, including alcoholic  
25 beverages, gratuities, Broadway play tickets, and

1 meals for family members being reimbursed; business  
2 purpose of attendees was not documented for in-  
3 district meal reimbursements; hotel and meal expenses  
4 were reimbursed, although these charges were included  
5 in conference fees; taxi fares were paid without  
6 points of travel included; receipts were not always  
7 included for meals in excess of per diem. District  
8 purchasing policies and procedures were not followed,  
9 including department directors and supervisors did  
10 not adequately examine supporting documentation for  
11 goods and services purchased; business purpose for  
12 goods purchased was not always documented; blanket  
13 purchase orders for small order purchases frequently  
14 exceeded the \$1,000 vendor monthly limit; excessive  
15 use of "emergency" purchase orders; approval on  
16 numerous purchase orders and invoices was in the form  
17 of a "rubber stamp;" purchasing laws pertaining to  
18 solicitation of bids were not always followed; an  
19 overpayment to a vendor was not accounted for  
20 properly nor was a refund requested. District  
21 weaknesses concerning overtime compensation included  
22 supporting documentation did not always contain  
23 project, number of hours worked, and services  
24 performed; using more highly skilled and paid  
25 employees to perform routine tasks.

1           In response to that investigative report, there  
2           was a letter dated June 10, 2010, from Commissioner  
3           Tom Kimbrell to Acting Superintendent Rob McGill and  
4           Incoming Superintendent Charles Hopson and Board  
5           President Tim Clark. That letter referenced Arkansas  
6           Code Annotated 6-20-1905 that requires ADE to provide  
7           notice identifying a district as being in fiscal  
8           distress on or before March 30 of each year.  
9           However, that law allows the ADE to "at any time  
10          after March 30, if the department discovers that a  
11          fiscal condition of a school district negatively  
12          impacts the continuation of educational services by  
13          the school district" -- that that notice can be given  
14          after March 30 or at any time. Now, Dr. Kimbrell  
15          went on to say that these audit findings and  
16          deficiencies are extremely serious violations of the  
17          administrative and Board's fiduciary responsibilities  
18          pertaining to public funds, but that ADE has no  
19          evidence that these violations have "negatively  
20          impacted the continuation of educational services" by  
21          Pulaski County Special School District. In other  
22          words, we had no indication of a declining balance or  
23          cash flow problems or anything that would prevent the  
24          district from continuing educational services. And,  
25          therefore, because of that we're limited to the



1 period from January 1, 2011 to March 30, 2011 to  
2 identify the district as being in fiscal distress  
3 because of other indicators.

4 Dr. Kimbrell went on to include information that  
5 the ADE may take the following actions to address  
6 school districts in fiscal distress: require the  
7 superintendent to relinquish all administrative  
8 authority with respect to the school district;  
9 appoint an individual in place of the superintendent  
10 to administratively operate the school district under  
11 the supervision and approval of the Commissioner of  
12 Education and to compensation non-department agents  
13 operating the school district from school district  
14 funding; call for the temporary suspension of the  
15 local school board of directors; require the school  
16 district to operate without a local school board of  
17 directors under the supervision of the local  
18 superintendent or an individual or panel appointed by  
19 the Commissioner; place the administration of the  
20 school district over to the former board of directors  
21 or to a newly elected school board of directors; or  
22 take any other action allowed by law that is deemed  
23 necessary to assist a school district in removing  
24 criteria of fiscal distress. Dr. Kimbrell strongly  
25 recommended that Pulaski County's administration and

1 board work together with urgency to rectify these  
2 issues. And copies of that letter were sent to all  
3 boards members.

4 Then, on September 8, 2010, Assistant  
5 Commissioner William Goff wrote to Superintendent  
6 Charles Hopson that Pulaski County Special School  
7 District had experienced two or more indicators of  
8 fiscal distress in one school year determined to be  
9 at a nonmaterial level, but that without intervention  
10 could place the district in fiscal distress. The  
11 indicators were state or federal audit exceptions or  
12 violations, and failure to comply with state law  
13 governing purchasing or bid requirements. It went on  
14 to say that ADE may revise and deem these indicators  
15 to be material on the basis of future review and  
16 investigation. It listed specific findings from the  
17 investigative report prepared by the Arkansas  
18 Division of Legislative Audit, April 28, 2010. The  
19 law, Arkansas Code Annotated 6-20-1904 required the  
20 district's board of directors to discuss the notice  
21 from ADE during the next regularly scheduled board  
22 meeting following receipt of notice. They did so at  
23 the September 14, 2010 regular meeting of the board  
24 of directors. The board heard at that time a report  
25 regarding the notice from ADE. And then, at the

1 November 9, 2010 regular meeting of the Pulaski  
2 County Special School District board of directors,  
3 Anita Farver, CFO for the district, presented the  
4 Early Fiscal Distress Action Plan. That action plan  
5 is an attachment to your board agenda. I will have  
6 to say that that is a very good, well thought out  
7 plan. It does specifically address the items  
8 mentioned in my letter of September 8th as an action  
9 plan and the persons responsible. And if that plan  
10 is implemented, not circumvented, it would address  
11 most of the issues contained in my letter of  
12 September 8th.

13 There's another investigative report update by  
14 Arkansas Division of Legislative Audit on December 6,  
15 2010, reviewed by the Joint Auditing Committee on  
16 December 15, 2010. And let me clarify this. This is  
17 the second of three investigative reports that we'll  
18 talk about by the Division of Legislative Audit.  
19 It's similar to the annual financial audit that we  
20 discussed. They were engaged to come back and  
21 follow-up on findings from the previous report. And,  
22 therefore, when we get to that third report you'll  
23 see those items that were still left unresolved at  
24 that point in time. So, the fact that I'm providing  
25 you with information from the first two reports does

1 not indicate that all of these issues are still  
2 outstanding. Some of them -- many of them have been  
3 satisfactorily addressed.

4 This report was conducted primarily for the  
5 period of March 1, 2009 through November 30, 2010.  
6 Results of the review: Acting Superintendent Robert  
7 McGill did not maintain records to document personal  
8 use of district fuel credit cards; Superintendent  
9 Hopson did not maintain records to document personal  
10 use of district fuel credit cards; Superintendent  
11 Hopson's employment contract contained provisions not  
12 allowed by Code nor certain IRS regulations. School  
13 board members received unallowed reimbursements and  
14 use of cellular telephone totaling \$1,360, which is  
15 due the district. Although this review indicated  
16 improvements in purchasing practices, the district  
17 continued to have issues: supporting documentation  
18 was not available for all disbursements; accounts  
19 payable checks were occasionally held for pickup by  
20 or hand-delivered to vendors; some maintenance  
21 department purchases were not tracked properly;  
22 several instances for which asset information was not  
23 accurate; several instances for which inventory items  
24 were not adequately tracked; security measures at the  
25 warehouse were not sufficient; three new employees

1           were paid a total of \$9,741 for days not worked; an  
2           internal review conducted by district personnel  
3           disclosed that the district's grant writer had  
4           misused district supplies and had received mileage  
5           reimbursement for travel unrelated to district  
6           business on district time; DREAM, a vendor which  
7           provided before and after school programs, owes the  
8           district \$21,791 for meals and snacks provided by the  
9           district; the district did not code all expenditures  
10          consistently or in accordance with ADE's accounting  
11          manual; the district did not timely void stale  
12          outstanding checks.

13                 Then, the third and final investigative report  
14          by the Division of Legislative Audit, dated March 30,  
15          2011, covered the period of time of December 1, 2010  
16          through February 24, 2011. This mentions the  
17          unresolved recommendations from the investigative  
18          report dated December 6, 2010. District has not  
19          developed a policy which requires employees to  
20          maintain vehicle usage records for personal use of  
21          district vehicles to comply with IRS regulation;  
22          board action concerning acceptance of bid proposals  
23          is not clearly denoted in board minutes; district has  
24          not developed a policy regarding gift cards or other  
25          cash equivalent assistance provided to students

1 through the Equity and Pupil Services Department;  
2 district has not developed a policy regarding  
3 employee use of district vehicles for commuting to  
4 work; district has not developed policies and  
5 procedures to ensure all inventory in the district  
6 warehouse is accounted for properly; district has not  
7 enhanced security methods to monitor warehouse  
8 activity; district has not established procedures for  
9 the issuance of manual checks; district did not  
10 obtain reimbursement from the Chief Technology  
11 Officer nor provider explanation for \$311 identified  
12 as unallowable expenses; therefore, this amount  
13 remains due district. District retained an attorney  
14 to assist in collecting \$1,223 from board member Gwen  
15 Williams for cellular telephone services, unallowable  
16 mileage, gratuities, parking, and travel advances  
17 incurred from March 1, 2009 through July 31, 2010. No  
18 reimbursement, nor documentation, related to the  
19 district grant writer's potential misuse of district  
20 supplies totaling \$1,221 and an additional \$343 in  
21 questioned supplies. District has not determined nor  
22 received reimbursement from employees responsible for  
23 cellular telephone charges of \$3,884 not covered in  
24 district's service plan. DREAM, a vendor that  
25 provided before and after school programs, owes the

1 district \$21,791 for meals and snacks provided by the  
2 district. As disclosed in the December 6, 2010  
3 Investigative Report Update, the director of DREAM,  
4 daughter of a district assistant superintendent,  
5 agreed, through consent judgment, to reimburse this  
6 amount. However, no further payments have been made  
7 and the board voted to suspend these payments until  
8 further notice. As of report date, district has not  
9 received reimbursement of \$978 and \$3,424 from China  
10 Travel Services and the University of Central  
11 Arkansas Confucius Institute. Of accounts payable,  
12 invoices totaling \$14,824,270 for the period of  
13 December 1, 2010 through January 31, 2011, \$2,708,110  
14 (or 18.3%) were over 30 days old.

15 Now, I will have to say that subsequent to the  
16 identification letter on March 30 the district has  
17 provided information documenting corrective action on  
18 I believe all the items in update number two as far  
19 as their corrective actions.

20 Regarding the Annual Financial Report, I think  
21 I can see all but one of those findings addressed in  
22 the district's early fiscal distress action plan.  
23 And I believe that one indicator had to do with  
24 segregation of duties regarding cash receipts. So,  
25 there has been substantial activity subsequent to the

1 identification of the district.

2 There's a report from Navigant Consulting, Inc.,  
3 dated April 20, 2011. Navigant is headquartered in  
4 Chicago. They were engaged by the Arkansas Attorney  
5 General's office, primarily to perform a financial  
6 and operational forensic analysis of the budget and  
7 expenditure patterns of the three Pulaski County  
8 school districts to determine how deseg funding has  
9 been historically expended and identify areas where  
10 cost savings can be achieved. Identify areas of  
11 weaknesses in internal controls and policies that may  
12 have allowed fraud, waste, mismanagement or abuse of  
13 the desegregation funding. And, perform an impact  
14 analysis to serve as the underlying rationale for any  
15 proposed wind-down of deseg funding to ensure that  
16 the reduction in funding will not have an adverse  
17 impact on the academic and fiscal integrity and  
18 standards of the school district. The Department's  
19 primary interest in this report dealt with that third  
20 -- I mean that second item regarding areas of  
21 weaknesses in internal controls. Even though we did  
22 not have access to this report at the time we  
23 identified the district, it did provide a third-party  
24 review of district operations and their analysis and  
25 opinion on how the district was performing internal



1 controls and adhering to policies.

2 The Navigant report was published -- well, I  
3 just said that -- after ADE notified the district  
4 that it was being identified. Beginning in section  
5 three, on page 9, of your Item C of the report, Other  
6 Preliminary Findings and Observations, there is a  
7 list of observations. High degree of nepotism -- the  
8 board voted in June 2010 to discontinue the practice  
9 of permitting the issuance of travel advances to  
10 board members, the superintendent and employees who  
11 travel to out-of-town conferences or for other  
12 business matters for Pulaski County. Superintendent  
13 continues to submit travel advance requests to the  
14 Accounts Payable Department and they continue to be  
15 processed and paid. It's important to mention that  
16 the report goes through December 10, 2010. Their  
17 actual work ended on December 10, 2010, so nothing in  
18 this report had to do with anything occurring after  
19 that date. There was no process to ensure the timely  
20 reconciliation of travel expenses. Lack of operating  
21 policies and procedures related to the accounting,  
22 utilization and processing of desegregation funding.  
23 Many Pulaski County School District employees  
24 interviewed were not aware of the Business Procedures  
25 Manual adopted July 15, 2009. The Pulaski County

1 School District does not have a documented policy and  
2 procedure in connection with the issuance and proper  
3 use of credit cards used to purchase petroleum  
4 products for its fleet of school buses. Furthermore,  
5 there is a lack of proper segregation of duties  
6 involved in the custody, recording and reconciliation  
7 of the purchases. No written policies and procedures  
8 in connection with the transfer or disposal of fleet  
9 vehicles. Navigant identified the following  
10 preliminary issues related to the "tone at the top"  
11 and governance at the Pulaski County Special School  
12 District. Employees stated that certain board  
13 members, the superintendent and senior level  
14 employees still request and receive travel advances,  
15 although the board voted in June 2010 to discontinue  
16 this practice. Employees stated that board members,  
17 superintendent and other senior level employees  
18 frequently utilize their position and authority to  
19 circumvent certain processes. For example, these  
20 individuals frequently request "emergency" checks to  
21 be processed by the Accounts Payable Department and  
22 pressure Accounts Payable employees by remaining in  
23 the department until the check is issued. Accounts  
24 Payable personnel stated that they process  
25 approximately three such emergency check requests

1           daily.

2           Navigant identified the following preliminary  
3           issues related to the "tone at the top" continued.  
4           Accounts Payable personnel process payments by either  
5           check request or purchase order. The Business  
6           Procedures Manual, check requests should only be used  
7           to process payments of up to \$500 since this process  
8           bypasses the review by the Purchasing Department.  
9           The bypass of the Purchasing Department has resulted  
10          in the duplicate payment of some invoices.  
11          Accounting department personnel stated that in  
12          October 2010 the board approved a policy that  
13          purchases more than \$500 require the preparation of a  
14          purchase order requisition, which is reviewed by the  
15          Purchasing Department before an approved purchase  
16          order is issued. As a result of the new policy,  
17          payments by check requests have reduced  
18          significantly; however, this new purchasing policy  
19          still appears to be circumvented by the  
20          superintendent, board members, and senior level  
21          employees. Checks are printed with the signature  
22          plates of the superintendent and the board president.  
23          It does not appear that there are any additional  
24          reviews, approvals or authorizations before the  
25          checks are issued. There does not appear to be any

1 consideration on proper segregation of duties when  
2 assigning access to the vendor master list. There is  
3 no requirement to perform any due diligence vetting  
4 procedures on a new vendor to confirm its identity,  
5 existence or other information regarding the nature  
6 of its business and identification of potential  
7 related parties. Some employees expressed concerns  
8 regarding the loss of historical institutional  
9 knowledge. For example, in the past five years,  
10 Pulaski County Special School District has had three  
11 CFO's and four superintendents. Some employees are  
12 concerned about the high employee turnover and the  
13 loss of continuity.

14 Accounts Payable and Purchasing department  
15 personnel feel they are understaffed and under  
16 immense pressure to properly perform their duties. A  
17 Pulaski County Special School District employee  
18 expressed a concern that maintenance department  
19 personnel may be misappropriating district funds by  
20 having a separate checking account to deposit  
21 proceeds from sale of scrap and misappropriated  
22 supplies for use in personal business of maintenance  
23 department personnel. The Director of Transportation  
24 has sole discretion to decide how fully depreciated  
25 or non-operational fleet vehicles should be disposed

1 of, either by auction or salvaged for parts and scrap  
2 metal. No documented process to determine how fleet  
3 vehicles should be disposed of and how the proceeds  
4 are received by the district and accounted for.

5 This is -- this next slide is very important  
6 regarding the information just provided regarding  
7 Navigant, and this is verbatim from the Navigant  
8 report. Navigant based its preliminary observations  
9 and analyses solely on the information and documents  
10 provided and has not verified the information and  
11 documents or otherwise sought independent  
12 confirmation thereof. In making observations and  
13 analyses, Navigant has, in part, relied on assertions  
14 made by the representatives of the Pulaski County  
15 Special School District and ADE. Given the  
16 limitations discussed above, the procedures performed  
17 by Navigant, and the extent of the information  
18 collected, Navigant cannot be certain at this time  
19 that all of the information collected is accurate or  
20 complete. The preliminary findings and observations  
21 set forth herein are based solely on the work  
22 performed through the date of this report. As work  
23 progresses, it is possible that the analyses and  
24 findings may change as additional information is  
25 obtained and additional procedures are performed.

1           In conclusion, many of the findings and issues  
2           cited in the audits and investigative reports  
3           occurred during the tenure of previous  
4           superintendents. Many of the findings and issues  
5           cited in the audits and investigative reports have  
6           been addressed through the development of new and  
7           well thought out policies and procedures, a specific  
8           example being the early fiscal distress action plan  
9           that I alluded to earlier. Several corrective  
10          actions have occurred subsequent to ADE's  
11          notification regarding fiscal distress. The numerous  
12          audit findings and issues that have been documented  
13          over the last three years, including multiple repeat  
14          findings and delayed corrective actions, cast doubt  
15          upon Pulaski County Special School District's ability  
16          and/or its willingness to strictly implement the  
17          policies and procedures it has developed to address  
18          these findings. Fiscal distress classification will  
19          grant ADE the authority to closely monitor the  
20          financial practices of Pulaski County Special School  
21          District and will also grant the Commissioner of  
22          Education the authority to take more drastic measures  
23          if the current leadership of the district fails to  
24          take adequate corrective measures. The Department's  
25          recommendation is for the State Board of Education to

1 immediately classify Pulaski County Special School  
2 District as being in fiscal distress. Thank you, Mr.  
3 Chairman.

4 CHAIRMAN WILLIAMS: Thank you. Mr. Jones.

5 MR. JONES: Mr. Chair, Ladies and Gentlemen, Dr.  
6 Kimbrell, thank you very much. I'm going to trust  
7 that you picked up on the matters that Mr. Goff  
8 properly and I appreciate him conceding that have  
9 been done. I want to get to -- it's late and I don't  
10 know what would be worse, for me to try -- I'm not  
11 going to sit here and read all the kind of stuff that  
12 he did. Don't worry. But I do want to make sure  
13 that our April 28 appeal letter and the appendix that  
14 accompanied it is indeed part of this record and that  
15 y'all have had an opportunity to look at it. And,  
16 frankly, if you haven't, it's most of our response to  
17 the Department's case and I don't see any reason for  
18 me to sit here -- stand here, rather -- and read to  
19 y'all what I think is reasonably clear in the letter  
20 as our position and our summary. And then the backup  
21 then appears in the appendix, which I think probably  
22 numbers in excess of 250 pages. And we provided that  
23 to Ms. Stewart on a disk. I hope y'all all got it in  
24 a way that you prefer so as to be able to refer to  
25 it.

1 (WHEREUPON, PCSSD Exhibit One (1), in CD form,  
2 was marked for identification and entered into  
3 evidence.)

4 MR. JONES: I do appreciate Mr. Goff being  
5 willing to talk with me this weekend because when I  
6 saw and was kindly provided a copy of his  
7 presentation I thought, My goodness, we're going to  
8 have to re-plow everything that has come down the  
9 pike during these last 18 months or so. But let me  
10 see if I can tighten this up a little bit and  
11 hopefully give you some good suggestions for an  
12 efficient review. There are four items that were  
13 mentioned in the Hudson Cisne audit, dated June 30,  
14 2010. They I think were all repeat exceptions. I  
15 think they all dealt with internal controls and  
16 policies, and I appreciate Mr. Goff conceding, I  
17 think with one slight qualification, that they were  
18 addressed in well-reasoned, well thought out policies  
19 that were developed as part of the district's early  
20 fiscal distress plan and were done in coordination  
21 with Mr. Goff and Ms. Burnett and were basically  
22 developed during the time period of last September  
23 and October, and the board adopted them all. His one  
24 reservation was in respect of the potential cash  
25 receipts handling. We can have Ms. Farver address



1           that if we need to. I think if you look at the  
2           policy that was actually implemented -- and it's the  
3           stuff that's right behind the last of the letters;  
4           it's kind of in block format -- I think you will see  
5           that the one regarding the handling of deposits and  
6           receipts is written broadly enough to cover cash  
7           receipts as well as checks or ever how the district  
8           receives funds and income. So I would represent to  
9           you that when you review that you should actually be  
10          satisfied that we have made a good faith effort to  
11          comply with that one.

12                 Now, in my way of looking at this, the Hudson  
13          Cisne audit is the only audit that you properly --  
14          well, it's the only audit that's an audit that's  
15          before this body today. And I concede that the June  
16          30, 2010 Hudson Cisne document is a legal state  
17          audit. The rest of this I sent as part of my job to  
18          point out that all of these legislative audit special  
19          investigative reports are not audits. They go to  
20          great pains within their own text to explain that  
21          they were not conducted in accordance with -- I've  
22          forgotten the exact language -- I can pull it out and  
23          read it -- with government prescribed or generally  
24          accepted accounting principles; rather, there's  
25          something less than the standard audit. There's a

1 lot of stuff in those and there was a lot of  
2 information, if you will, in the slides the  
3 Department presented. But in terms of the letter  
4 citing the district being in fiscal distress because  
5 of material departures from a state or federal audit,  
6 the only state or federal audit -- and it's a state  
7 audit -- is the Hudson Cisne audit, dated June 30,  
8 2010. Now that may sound like a lawyer splitting  
9 hairs, but I didn't write the statute and I didn't  
10 write the Department's rules. And the Department  
11 picked up on that terminology and those terms of art  
12 when it articulated the rules that prompted the  
13 Department -- or that the Department cited to  
14 designate us, on March 30 of this year, as a district  
15 in fiscal distress. And that's kind of a segway  
16 toward -- I can understand the Department seeking to  
17 rely on those and I want to say we think we've  
18 addressed all of them. And let me do that first  
19 before I complain about something else. When we --  
20 when I was contacted early April to assist the  
21 district in making a comprehensive, intelligible  
22 response to the notice of recommendation of fiscal  
23 distress, it seemed to me that the logical thing to  
24 do was take the format, A through Z -- they covered  
25 the whole alphabet -- that legislative audit used

1 both in its update number two, which was the last one  
2 dated April 1, and its December 14 update. That's  
3 the same A to Z of items that carried over from the  
4 initial investigative report. They just hadn't  
5 labeled them then. And as Mr. Goff so helpfully  
6 pointed out, if they don't repeat them, the  
7 assumption is they've been satisfactorily dealt with.  
8 So, what I tried to do in the letter was start with  
9 A, from update number two of the legislative audit,  
10 and in a sentence or two inform this body what the  
11 district had done -- and a lot of it wasn't done  
12 until March or April of this year -- dates don't lie.  
13 But I think I can represent to you -- and y'all can  
14 pick at it if you want to -- that from A to Z the  
15 district has in fact, as we stand here today,  
16 addressed each and every item that remained in the  
17 special legislative audit investigations. When I say  
18 legislative audit, again, I'm not acknowledging that  
19 these qualify as state or federal audits under the  
20 Department's rules and regulations, which prompted  
21 them to so make the recommendation to this body. But  
22 we -- you know -- even if -- just for management  
23 reasons, it was important to deal with those issues.  
24 And I represent to you, without standing here and  
25 reading them all to you and going over the supporting

1 documents in the appendix, that it is my judgment  
2 that the district has done a good job in addressing  
3 the matters set out in a special investigative  
4 report. And as Mr. Goff informed you, as part of the  
5 response to early fiscal distress from last fall, the  
6 district in his judgment developed good, sound  
7 policies to address the true audit findings from  
8 Hudson Cisne.

9 Now, maybe somebody somewhere thought, Well, we  
10 need a little more. So this Navigant outfit -- now  
11 I'm going to apologize in advance; I'm going to get  
12 aggravated. This Navigant outfit appears, charging  
13 the State \$250,000 to come in and -- I thought they  
14 were coming in to help us. Supposedly, they were  
15 coming in to help the districts, all three, figure  
16 out how they could order their affairs to accept the  
17 day and the circumstances, if and when what the State  
18 now calls the desegregation funding runs out or is  
19 negotiated away or whatever. I haven't seen any help  
20 yet but nevertheless, they did what they did. The  
21 problem I have with their document is -- I should say  
22 problems -- it's not signed, there ain't no phone  
23 number on it. If you wanted to call somebody and ask  
24 them, "Who did you talk to" -- and they don't  
25 identify anybody, they just say, "Personnel told us"

1 or "Representatives asserted that." There is no  
2 attribution. It is the rankest form of hearsay I  
3 have seen in a long time. It is in fact a document  
4 prepared for litigation, just like Mr. Goff picked up  
5 from the Navigant report itself. It's to be tested  
6 in a court of law, not before a body like this. We  
7 would take what they said, conduct discovery of who  
8 said this, where are the documents that support this  
9 assertion, on and on. I would like to hire or  
10 recommend hiring an Arkansas CPA firm to come in  
11 behind them and point out their mistakes and point  
12 out what's not documented and what does not conform  
13 to any semblance of an audit function. And we may  
14 have the opportunity to ask Ms. Burnett -- I don't  
15 know if we will have to or not -- for permission to  
16 do that. But I am agitated by that report. It did  
17 come late, late in the game. Fundamentally, I don't  
18 think it's fair for y'all to either rely on it or  
19 give it any current credibility until it's tested by  
20 court rules. Because, after all, it says it's a  
21 forensic document and that's what's done when you're  
22 getting ready to sue somebody. So, maybe we're  
23 fixing to get sued. I don't know. They're doing it  
24 with all three districts. We cooperated. That was  
25 my recommendation; maybe that was a mistake. Little

1 Rock is not cooperating; maybe they're smarter than  
2 we are. In any event, our cooperation did permit the  
3 production of the report in time for y'all to see it  
4 or in time for it to come out eight days before our  
5 appeal was due. So, I won't say anything else about  
6 that unless somebody has a question about it.

7 So, if we could go back to what I think is what  
8 you should really evaluate and consider, it's the  
9 four findings from the Hudson Cisne report dated June  
10 30, 2010. They'll do another one and we'll try to  
11 expedite that one this time. But without getting  
12 into the minutia again -- because I think it's in our  
13 documents, or if you have a specific question, I  
14 think I can point out where you can go find the  
15 answer. I believe we've done an adequate job of  
16 addressing the audit exceptions that appeared in the  
17 actual audit. Much has been made in the media and  
18 the legislature about the matters asserted in the  
19 special legislative reports that were commissioned.

20 MR. LEDBETTER: Mr. Jones, I thought you said  
21 you weren't going to mention it again.

22 MR. JONES: I'm sorry, Mr. Ledbetter. Please  
23 allow me the Phil Kaplan rule of three, when I  
24 mention it a third time that remind me of that. So,  
25 okay. Mr. Ledbetter is exactly right. I'm not going

1 to mention it again. That's our presentation for  
2 right now. There are people here, if you have  
3 questions to address to them. The only other thing I  
4 would mention that came up sort of in the Earle  
5 matter, particularly with the -- I think with the  
6 Navigant thing, it also seems to inject matters from  
7 late 2010 and 2011 into this process today. What I  
8 think technically you're supposed to be considering  
9 matters that occurred from -- on or before June 30  
10 and were addressed thereafter. But in terms -- and I  
11 get that, Dr. Kimbrell, based on the date of the  
12 Hudson Cisne report. But anyway, I think we're  
13 merging, if you will, or rolling together multiple  
14 years here and I interpret your rule -- and I could  
15 be wrong -- to mean that what you cited us for was  
16 material variations from an audit that occurred in --  
17 two or more that occurred in one school year. That's  
18 my point. I didn't make it very well. Thank you  
19 very much.

20 CHAIRMAN WILLIAMS: Thank you. We're ready for  
21 questions and discussion by the board. I'd like to  
22 start off with a question for Mr. Goff. I was just  
23 reviewing their submission, their document, where  
24 they responded to some of the audit items. What's  
25 your take on their response?

1 MR. GOFF: I think they have a very good  
2 response. Some of the responses deal with  
3 establishing a board policy. The concern I have with  
4 that, as with other policies that had been  
5 circumvented or violated, is will the district  
6 conform to that policy and not override it -- not  
7 circumvent it. Other than that, I think they have  
8 done a good job as far as responding to each issue.

9 CHAIRMAN WILLIAMS: Let me just follow-up.  
10 They're developing the policy. Is it just the  
11 response of the audit or is it the response of fiscal  
12 distress?

13 MR. GOFF: Well, it is -- I guess the question  
14 here -- I mean, they're developing a policy to deal  
15 with an audit finding or an issue brought forth in  
16 the investigative reports. The fact that they  
17 delayed action on some of those items until they were  
18 identified for fiscal distress, you know, brings up  
19 the question: are they simply trying to address the  
20 fiscal distress issue or are they serious about  
21 fixing this audit finding.

22 CHAIRMAN WILLIAMS: Thank you. Other questions  
23 from board members? Yes.

24 MS. BURROW: My question would be for Dr.  
25 Hopson. I'd like some clarification on the



1 district's fiscal distress appeal letter, on  
2 Recommendation "T." That was the one that dealt with  
3 the grant writer.

4 SUPT. HOPSON: Yes.

5 MS. BURROW: And the response said that you  
6 collected the \$1,564 from the grant writer and that  
7 the position had been eliminated, but it didn't say  
8 the employee had been terminated. So, I wanted to  
9 find out for sure, has this employee been terminated?

10 SUPT. HOPSON: That's correct. We will not have  
11 that position and that employee will not return to  
12 the district.

13 MS. BURROW: So she's not in any position with  
14 the school district?

15 SUPT. HOPSON: Correct. Well, she's finishing  
16 out this current -- she's still finishing out this  
17 current school year but will not be back next year.

18 MS. BURROW: So, you didn't terminate her when  
19 this was -- this problem was discovered? You let her  
20 stay within the school district?

21 SUPT. HOPSON: Yes. And this is one of those  
22 items that was part of something that I had to handle  
23 when I accepted the position. So there was some  
24 clarity we were investigating and getting some more  
25 details. I did work with our HR Director on some

1 possibilities that were of a confidential nature.  
2 But once we recovered the money, we made the  
3 determination to have her continue out her current  
4 contract and not come back.

5 MS. BURROW: I guess I have a little difficulty  
6 with understanding that; that if someone would be  
7 that unethical that they would take that much money  
8 from the student funds that I would let them continue  
9 in any position. I mean, why do you think she  
10 deserved to stay within the school district?

11 SUPT. HOPSON: We had -- now part of this is of  
12 a personnel nature. But what I can say is that there  
13 was an initial recommendation from me regarding this  
14 employee and I had our HR team to review my  
15 recommendation. And based on the nature of the  
16 personnel issue, we did decide that it was probably  
17 in the best interest to allow the contract to finish  
18 out. There was some other factors and I don't know  
19 how appropriate -- how appropriate is it to go into  
20 those details? I'm going to have Mr. Brewer to just,  
21 if you don't mind, step up --

22 MS. BURROW: Yes.

23 SUPT. HOPSON: -- about that issue.

24 MR. BREWER: Good afternoon -- or evening, I  
25 might say. I started with the district in our HR

1 department sometime in January, so a lot of this had  
2 already taken place. That to say she has still  
3 disputed to this day -- we had no real hard proof,  
4 other than the finding. So in order for her to I  
5 guess save face, she decided she would just pay the  
6 money back.

7 MS. BURROW: Can you tell me what position she's  
8 working in now?

9 MR. BREWER: She is continuing in the same  
10 position.

11 MS. BURROW: Okay. So, she's still in the  
12 position as a grant writer?

13 MR. BREWER: That's correct.

14 MS. BURROW: I guess I don't understand that if  
15 you're -- she obviously knows that she took the money  
16 because she paid it back. I have trouble with her  
17 being there in that position still but -- okay.  
18 Thank you.

19 CHAIRMAN WILLIAMS: Other questions? Ms.  
20 Mahony.

21 MS. MAHONY: Mr. Hopson, I have a question about  
22 the DREAM program. Are they still under contract  
23 with the district?

24 SUPT. HOPSON: We actually have legal actions in  
25 place. But, currently, that contract is in place and

1 will terminate June 30th.

2 MS. MAHONY: Thank you.

3 CHAIRMAN WILLIAMS: Mr. Ledbetter.

4 MR. LEDBETTER: I guess, Dr. Hopson, you have a  
5 judgment against them?

6 SUPT. HOPSON: Correct.

7 MR. LEDBETTER: And they're under contract and  
8 they're still providing services to the district and  
9 you're still paying them?

10 SUPT. HOPSON: We are -- well, there is -- that  
11 particular I think situation -- well, there was board  
12 involvement. We have legal counsel involved. But I  
13 don't want to misspeak. Ms. Wilber is our legal  
14 counsel. Yes, but I think -- I think the answer to  
15 your question is yes, pending the outcome of the  
16 litigation.

17 MR. LEDBETTER: But, I'm sorry, ma'am, if you  
18 can identify yourself.

19 MS. WILBER: My name is Judy Wilber. I am the  
20 in-house counsel for Pulaski County Special School  
21 District.

22 MR. LEDBETTER: Okay. If you have a judgment,  
23 then that legal action, I think, is final?

24 MS. WILBER: That is correct.

25 MR. LEDBETTER: I mean, unless it's been

1           appealed and there's been a supercedeas, a bond  
2           posted --

3           MS. WILBER: You're absolutely correct. There  
4           was a -- initially, an agreement in lieu of execution  
5           of judgment that was signed with DREAM and the  
6           district back in November of 2010. When DREAM  
7           defaulted under that agreement, the district then  
8           moved to reduce that agreement to a judgment. That  
9           was just done on April 29th, the judge signed off on  
10          that judgment. We are in the process now of  
11          presenting that information to DREAM, the summons.  
12          It's my understanding -- and I'm not sure if Mr.  
13          Bequette is still here -- but it's my understanding  
14          that she was not -- DREAM was not served just yet  
15          with the court ordered judgment. But at this point  
16          we do have a valid enforceable judgment and it's just  
17          a matter of us conducting post-judgment discovery to  
18          determine what assets are collectable.

19          MR. LEDBETTER: Well, but my point was if -- one  
20          of the assets seems to be a revenue stream from the  
21          Pulaski County Special School District. Certainly  
22          you're not still -- you have the right to set-off,  
23          don't you?

24          MS. WILBER: That's correct. And I can't answer  
25          as to the contract. I do know that there is a

1 partnership between DREAM and the district, and I'm  
2 not sure what --

3 MR. LEDBETTER: Doesn't the right of set-off  
4 arise with or without a contract?

5 MS. WILBER: Absolutely. And I can't answer  
6 what's being paid to DREAM at this point. Maybe  
7 someone here can. Anita Farver is stating that there  
8 are no payments due to DREAM at this time.

9 MR. LEDBETTER: There are none?

10 MS. MAHONY: Pardon?

11 MS. WILBER: There are no payments due to DREAM.

12 MS. MAHONY: But they're still providing  
13 services?

14 MS. WILBER: It's my understanding they are  
15 providing services. Yes, ma'am.

16 CHAIRMAN WILLIAMS: Ms. Saviers.

17 MS. SAVIERS: I'm going to be brief. This just  
18 sounds kind of nutty. I mean, cell phones for board  
19 members and travel expenses in advance and, you know,  
20 on and on and on, and not being -- you know -- the  
21 curative actions not taking place until the district  
22 is notified. I'm kind of horrified. So, I'm really  
23 hoping that you guys can get it together and do some  
24 work with your board and help them understand what  
25 ethics are, as far as, you know, boards -- being a

1 board member, an elected board member. This is --  
2 this is unacceptable.

3 MS. WILBER: Ms. Saviers, I will say that I've  
4 been with the district for about two months now. And  
5 since I've been there I have seen them make great  
6 strides in trying to implement the corrective actions  
7 that we are here to talk about today.

8 MS. SAVIERS: And I'm real hopeful that -- I  
9 mean, I'm with you a hundred percent. I want you to  
10 succeed. But we need to have proof that these things  
11 -- that you're serious --

12 MS. WILBER: Uh-huh.

13 MS. SAVIERS: -- and these things are happening  
14 in a timely way and with success, so --

15 MS. WILBER: I agree. And I also say that I'm a  
16 district parent and I strongly agree. And what I've  
17 seen thus far, I've been very pleased with in the two  
18 months that I've been there.

19 CHAIRMAN WILLIAMS: Ms. Gullett.

20 MS. GULLETT: One of the findings -- and I don't  
21 know if it was in an investigative report or if it  
22 was the N word for the group that the Attorney  
23 General, Navigant or Navicenter, whatever it was; I  
24 don't know who that is. But it cited a lot of  
25 nepotism in the district. And so I guess it just

1 kind of comes to my mind if there are groups that owe  
2 money and they're still providing services and they  
3 haven't paid, or there's somebody who has access to  
4 money in the district and they've admitted to guilt  
5 and they've paid it back -- but yet, they're still in  
6 a position to have access to money, these people are  
7 not necessarily kin to anybody that would be  
8 responsible for getting rid of them, are they?

9 SUPT. HOPSON: Not to my knowledge. And what I  
10 will say is it was noted that a lot of this happened  
11 prior to my appointment, but I'm accepting full  
12 responsibility for it now as the current  
13 superintendent. And what's been happening is we've  
14 been putting into place corrective steps, very  
15 aggressively, to deal with many of the things you all  
16 are sharing within the past 10 months. But we're  
17 also moving in a very focused direction toward the  
18 future. So there are some things we are looking at,  
19 even the possibility of a nepotism policy because one  
20 is not in place and we're reviewing those kinds of  
21 options. But what I've been looking at in my role is  
22 the prioritization of what we must address in a very  
23 aggressive way and putting structures and policies in  
24 place to address them, but also charting the course  
25 for the future. So I'm going to accept



1 responsibility and assure you I will work with our  
2 board. And we, collectively, have been working I  
3 think in a very focused way in the past two to three  
4 months in correcting many of the things that you're  
5 referencing and they've been documented in the 300-  
6 page addendum that you have. But we accept full  
7 responsibility.

8 MS. GULLETT: One last question. Did you have a  
9 strategic plan or a plan of correction in place  
10 before this last contact from the Department?

11 SUPT. HOPSON: We did.

12 MS. GULLETT: Because these findings were not  
13 new necessarily, so --

14 SUPT. HOPSON: We did. When I was appointed, as  
15 you can see from the superintendent, the district was  
16 -- I think right after I signed my contract we  
17 received the notice about fiscal distress. So, we  
18 immediately started working as a team to address  
19 those concerns, so it's been an ongoing process with  
20 the legislative audit process and then our own  
21 internal auditors that we've hired from the outside.  
22 So, we have multiple sources that we have been --  
23 that I've been using as superintendent to direct our  
24 team.

25 CHAIRMAN WILLIAMS: Thank you. Ms. Newton.

1 MS. NEWTON: Dr. Hopson, or anyone else, is it  
2 reasonable to assume, at the end of a very long day  
3 and after all that we've reviewed and heard, that any  
4 reasonable person would not conclude, based on the  
5 information, that there's not a reasonable reason to  
6 have the district put on fiscal distress? You know,  
7 when you look at it from one hand or the other,  
8 whether it's a parent or administrator or an attorney  
9 or board of directors, clear to me is the red flags  
10 that are certainly alarming. And at the very least I  
11 think it would certainly behoove the district to have  
12 clean hands and to have the things -- you talked  
13 about transparency earlier --

14 SUPT. HOPSON: Correct.

15 MS. NEWTON: But it just doesn't seem to be  
16 something that's open to a lot of debate at this  
17 point. And I'm speaking from the vantage point of  
18 trying to come to a reasonable conclusion at the end  
19 of all of this. I just don't -- I can't understand  
20 -- help me understand, anyone, why we would assume  
21 that the district does not need to be identified  
22 based on the recommendation of the Division, based on  
23 supporting documentation of being in fiscal distress?

24 SUPT. HOPSON: I think the only thing you have  
25 to go on are our most recent actions. Now, while I'm

1           assuming responsibility for the past, I wasn't a part  
2           of it. But what this audit and much of the  
3           information that I received since becoming  
4           superintendent has allowed me to do is have some  
5           specificity about how we move forward in putting  
6           structures in place and policies in working with our  
7           board. I will state that to correct items, dating  
8           back to 2008, in 10 months is a daunting task but we  
9           have worked very aggressively at putting a full force  
10          effort into correcting many of the deficiencies and  
11          making sure that there are not repeats or that we  
12          have --

13                 MS. NEWTON: And I'm not discounting that. I'm  
14                 not discounting any work that you've done. I'm not  
15                 discounting the fact that many of these things  
16                 existed before you came on-board. But isn't it due  
17                 diligence as a part of our responsibility as State  
18                 Board members to insure that these things are  
19                 addressed and corrected in an expedient and  
20                 systematic manner?

21                 SUPT. HOPSON: That's correct.

22                 MS. NEWTON: And the only way that I can see at  
23                 this point of that being done is to interject the  
24                 authority of the State Board of Education in this  
25                 process. Because clearly, for one reason or the

1 other, it hasn't happened before then. You know, we  
2 may be looking at a new superintendent next year and  
3 a different situation and then his claim will be,  
4 "Well, I just got here and I've just been" -- you  
5 know -- "I'm in the process of trying to arrest and  
6 correct." I just don't see how we can get to where  
7 we need to be absent having this designation. Now, I  
8 just can't see it.

9 SUPT. HOPSON: Well, I will say that our fiscal  
10 distress is based on material -- nonmaterial  
11 evidence. I mean, it's -- our fund balances are  
12 strong. We have worked collectively as a  
13 superintendent and board to trim \$8,000,000 to move  
14 forward with a facilities bond that we'll be coming  
15 back to you with in June. But I think it's your  
16 responsibility as a board to hold us accountable for  
17 what we state we're going to do. And I'll respect  
18 however you choose to go about that.

19 CHAIRMAN WILLIAMS: Thank you. We're going to  
20 have a comment by the Commissioner, and then we'll be  
21 ready for a motion.

22 COMMISSIONER KIMBRELL: I won't repeat the  
23 things that I said during the Earle -- in the Earle  
24 -- because I do believe that there are things -- and  
25 Mr. Goff came to us and he said they have developed

1 policies, they went and they visited, they visited  
2 with Ms. Farver and looked at those policies, and  
3 they've begun to develop policies, put those into  
4 place. I would disagree with our attorney friend,  
5 Mr. Jones. I don't think you just have to look at  
6 one audit. I think there are trend history that you  
7 have to look at, whether it's fund balances, which is  
8 not the case here, or issues of audit exceptions and  
9 problems. So, our rules allow, and I think demand,  
10 that we do that. This designation, if you chose to  
11 do this as a board, doesn't keep them from moving  
12 forward, and we've had this conversation with  
13 leadership at Pulaski County of their plan that  
14 they're working diligently to put into place to  
15 address the issues of facilities and some disparities  
16 in those ways. It doesn't stop any of that planning  
17 process. But what we do have, and we continue to  
18 get, are pieces of evidence that there are and  
19 continue to be policies and procedures not followed.  
20 And those are the kinds of things I believe in a very  
21 formalized plan that would have to be sent through  
22 the process of board development, board approval, and  
23 then come to the Department of Education; then  
24 execution of that plan with evidence that could come  
25 back to you that they have completed that process,

1 that they have shown -- demonstrated evidence that  
2 the policies are in place and the policies have been  
3 followed. Then, we can subsequently recommend that  
4 they be taken off of that distress list. Contrary to  
5 some readings that I've had, this is not politically  
6 motivated. I get emails saying it's a politically  
7 motivated attempt to take control of the Pulaski  
8 County School District. I can tell you unequivocally  
9 we don't have the resources to do that; we don't want  
10 to do that. But whether it's Pulaski County, Earle,  
11 Bald Knob, DeQueen, Greenland, whatever school  
12 district it is that has these indicators, I think  
13 it's our responsibility to step in and to help that  
14 district with its guidance and its monitoring. So, I  
15 think we have to have that evidence and a plan to do  
16 that. We will not stop their progress. We will work  
17 with them to help them continue with their progress  
18 within their own guidelines. But we continue to get  
19 evidence that policies are not being followed.

20 CHAIRMAN WILLIAMS: Thank you, Commissioner.  
21 We're now ready for a motion.

22 MS. NEWTON: Mr. Chair, I move that Pulaski  
23 County Special School District be identified in  
24 fiscal distress based on the recommendation of the  
25 Department of Education staff.

1 MS. BURROW: Second.

2 CHAIRMAN WILLIAMS: The motion is made by Ms.  
3 Newton and second by Ms. Burrow that the Pulaski  
4 County Special School District be placed -- be  
5 identified as being in fiscal distress, as  
6 recommended by the Department. Ready for discussion.

7 MR. LEDBETTER: Mr. Chairman, one thing that I  
8 want to say, Mr. Jones mentioned this report that the  
9 Attorney General had done, and I haven't read that  
10 report and don't rely on that report in reaching my  
11 decision. But rather, on the -- really on the email  
12 that Mr. Jones sent that I think indicated that even  
13 though the district has taken great steps towards  
14 correcting some of the problems that gave rise to the  
15 Department's designation, they haven't all been  
16 corrected. And, of course, there have been many  
17 repeat findings in prior audits and all of that is of  
18 concern to me, and that's why I'm going to vote in  
19 support of this motion. And I have read all of the  
20 submittals of the district, regardless of whether  
21 they were hearsay or not, and most of it is hearsay  
22 but I've read it anyway and I've taken it to heart as  
23 to what has happened. And I also want to say I think  
24 that the district is turning the corner and I think  
25 that it will turn the corner and I think under Dr.

1 Hopson's leadership they're making strides in the  
2 right direction. But I agree with Ms. Newton that I  
3 don't see how we can do our job and not uphold the  
4 Department and have the involvement in making sure  
5 that these things are addressed.

6 CHAIRMAN WILLIAMS: Yes.

7 DR. MAYS: I'd like to ask a question of Dr.  
8 Hopson, and this has to do with the analysis that you  
9 were referencing. On page 19, and this is dated  
10 April 20th, on page 19, it says, "Accounting" -- this  
11 is Navigant again speaking; it says, "Accounting  
12 department personnel stated that in October 2010 the  
13 board approved a policy that purchases more than \$500  
14 require the preparation of a purchase order  
15 requisition, which is reviewed by the Purchasing  
16 Department before an approved purchase order is  
17 issued. As a result of the new policy, payments by  
18 check requests have reduced significantly; however,  
19 the new purchasing policy still appears to be  
20 circumvented by the superintendent, board members,  
21 and senior level employees." So, I'd just ask you  
22 the direct question: have you asked the Purchasing  
23 Department to create a check that has not gone  
24 through the purchase order requisition?

25 SUPT. HOPSON: That one was -- I don't -- that



1 was the problem. No. I wouldn't do that. What I do  
2 as superintendent, the tone is set at the top. So,  
3 if we put policies into place, I hold myself to the  
4 standard of complying and every one in my cabinet.

5 DR. MAYS: So, you haven't gone in there and  
6 asked --

7 SUPT. HOPSON: No.

8 DR. MAYS: -- for a check? What about board  
9 members?

10 SUPT. HOPSON: Our board members are working  
11 within our structure to follow the policy.

12 DR. MAYS: Has it been a policy of the Pulaski  
13 County Special School District that board members  
14 could request a check directly from Purchasing?  
15 That's just totally foreign to me. After serving  
16 over 20 years on the local school board, I can't  
17 imagine that a board member would just ask for a  
18 check to be written.

19 SUPT. HOPSON: It has not happened since I've  
20 been there. I mean, I think there might have been  
21 possibilities, but if you're asking me to confirm  
22 whether I know that's the case, I can't do that.

23 DR. MAYS: Okay. So, you're saying this is not  
24 happening?

25 SUPT. HOPSON: Not to my knowledge.

1 CHAIRMAN WILLIAMS: Okay. I tell you what,  
2 we're in the discussion phase. That concludes our  
3 questioning. Mr. Lasiter, you were up at the podium.  
4 We have a motion and a second on the floor.

5 MR. LASITER: Yes, sir. Just very briefly with  
6 regard to the motion. The motion at this point, if I  
7 heard it correctly, it needs to be that they be  
8 classified --

9 CHAIRMAN WILLIAMS: Okay.

10 MR. LASITER: -- in fiscal distress. It's  
11 semantics but it's also -- those words are  
12 significant in terms of the statutes.

13 CHAIRMAN WILLIAMS: And so the motion is is that  
14 the Pulaski County Special School District be  
15 classified in fiscal distress. Is that --

16 MS. NEWTON: Yes.

17 CHAIRMAN WILLIAMS: And the second, is that fine  
18 also?

19 MS. BURROW: Yes.

20 CHAIRMAN WILLIAMS: The motion has been made and  
21 properly seconded. We've had discussion. All in  
22 favor?

23 (UNANIMOUS CHORUS OF "AYES")

24 CHAIRMAN WILLIAMS: Opposers?

25 (BRIEF MOMENT OF SILENCE)

1 CHAIRMAN WILLIAMS: The motion passes. They're  
2 classified in fiscal distress.

3 A7: CONTINUATION OF CONSIDERATION OF AWARDING WAIVER DAYS -  
4 PULASKI COUNTY SPECIAL SCHOOL DISTRICT

5 CHAIRMAN WILLIAMS: We're going to continue with  
6 Pulaski County Special School District, Item A7,  
7 Waiver Days. We had sent out and we've received some  
8 information. Ms. Smith, if you could give us a  
9 little bit of an explanation of this document?

10 (A FEW MOMENTS OF DISRUPTION WHILE PEOPLE ARE LEAVING THE ROOM)

11 CHAIRMAN WILLIAMS: May I have your attention  
12 please? As you exit the room, if you could do so  
13 quietly and, Board Members, we're going to move on  
14 with our next item. Dr. Smith.

15 DR. SMITH: Good afternoon to Members of the  
16 Board. At your request you asked for some  
17 clarification about the waiver days for Pulaski  
18 County. And what we have provided for you is a chart  
19 showing the number of waiver days that specific  
20 schools need in order to complete the year. And I've  
21 listed them by elementary schools, middle schools and  
22 high schools. If you will note, they suggested to  
23 you earlier today that they took six days for snow  
24 days and they have made up two of those; one that  
25 would have included February 14, and another day was