

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

LITTLE ROCK SCHOOL DISTRICT

PLAINTIFF

V.

NO. 4:82CV00866/DPM

**PULASKI COUNTY SPECIAL SCHOOL
DISTRICT NO. 1, ET AL.**

DEFENDANTS

MRS. LORENE JOSHUA, ET AL.

INTERVENORS

KATHERINE KNIGHT, ET AL.

INTERVENORS

MEMORANDUM IN SUPPORT OF PCSSD RESPONSE TO MOTION FOR ORDER

There is no dispute but that the Arkansas Department of Education's actions relieving the School Board and its Superintendent of authority creates the potential for conflicts or other problems in the prosecution and management of this litigation. Arkansas fiscal distress statutes do, however, provide some guidance and some reassurance.

ACA 6-20-1909 is part of the fiscal distress statutory scheme. Under particularized circumstances, it provides that the Department of Education may relieve the superintendent, appoint a new superintendent under the supervision and approval of the Commissioner of Education, call for the temporary suspension of the local school board or require the school district to operate without a local school board but under the supervision of a local superintendent or an individual or panel appointed by the Commissioner. See ACA 6-20-1909 § (a)(1)-(4).

It is undersigned counsel's understanding that with the appointment of Dr. Jerry Guess, that subsection (a)(4) has now been activated. Prior to his appointment, it would appear that the Department was proceeding pursuant to (a)(2) by the appointment first of Bobby Lester who

served “in the place of the superintendent” for one week and now Dr. Tony Woods of ADE who has succeeded Mr. Lester in the same role.

It appears that the status quo fits within the language of (a)(4) which states:

Require the school district to operate without a local school board of directors under the supervision of the local superintendent or an individual or panel appointed by the commissioner;

There appear to be no cases interpreting this section and comparable legal authority is likely lacking given the different statutory schemes and hierarchies which exist from state to state.

Undersigned counsel does not currently have any particular suggestions to offer beyond what will largely amount to self monitoring by all of the parties with undersigned counsel reporting to the new superintendent who will operate without an elected school board.

Accordingly, as matters currently stand, undersigned counsel does not perceive a need for the Court to take any extraordinary action or consider any exceptional steps at this time while recognizing the circumstances could change overnight which might warrant any one or more of the parties to seek further guidance of this Court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which shall send notification of such filing to the following:

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/s/ M. Samuel Jones, III

I hereby certify that on June 30, 2011, I mailed the document by United States Postal

Service to the following non CM/ECF participants.

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