

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

LITTLE ROCK SCHOOL DISTRICT

PLAINTIFF

v.

No. 4:82-cv-866 DPM

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

DEFENDANTS

MRS. LORENE JOSHUA, et al.

INTERVENORS

KATHERINE KNIGHT, et al.

INTERVENORS

MOTION FOR RELEASE FROM 1989 SETTLEMENT AGREEMENT

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 Motion for Release from 1989 Settlement Agreement:

1. The 1989 Settlement Agreement is entering its twenty-fourth year of operation.
2. In that time, the Pulaski County school districts have achieved unitary status in the majority of their operations.
3. Little Rock School District is fully unitary and has been so since 2007.
4. The LRSD was initially declared unitary as to its obligations under the U.S. Constitution in 2002.
5. NLRSD was declared fully unitary in 2011.
6. The Court recognized in 2002 that “for the last few years, it appears NLRSD has been unitary.” *Little Rock School District v. Pulaski County Special School District*, 237 F.Supp.2d 988, 1016 fn. 58 (E.D.Ark. 2002).
7. PCSSD is partially unitary.
8. PCSSD is unitary in student assignments to schools.

9. In the two decades that the 1989 Settlement Agreement has been in place the State has made major changes to the way education is delivered in the State and in Pulaski County.

10. Some of those changes include:

- a. Implementation of the Arkansas Comprehensive Testing, Assessment, and Accountability Program (“ACTAAP”) which requires school districts to adopt a rigorous curriculum consistent with State standards, assess student learning of that curriculum, and provide interventions for students that do not achieve grade-level proficiency. Act 999 of 1999, codified at Ark. Code Ann. § 6-15-401, *et seq.* see also the Quality Education Act of 2003 (Act 1467 of 2003).
- b. Arkansas Consolidated School Improvement Plans (“ACSIPs”) are required under ACTAAP for all schools and school districts in the State. ACSIPs must engage in a comprehensive, research based process to plan educational strategies to improve learning in the schools. Ark. Code Ann. § 6-15-426(e).
- c. The Arkansas Public School Computer Network (“APSCN” (pronounced ap-scan)) provides a massive resource for educators to make data-based decisions about student’s mastery of the core curriculum and what education strategies are working best. Ark. Code Ann. § 6-11-128.
- d. The No Child Left Behind Act (“NCLB”) was adopted in 2001 by the federal government. 115 Stat. 1702, 20 U.S.C. § 6842, *et seq.* NCLB brought a significant focus on improving the academic performance of students who score below grade-level on state academic assessments. It also provides accountability measures for schools in which students do not meet state defined achievement goals.

- e. State funding for education has changed significantly. The manner in which the State funds education has changed significantly as well as the amount of money the State has dedicated to education. Revenue has increased to the LRSD alone by over \$100 million from the 2001-02 school year to the 2009-2010 school year. Foundation funding (the base education revenue from the State since 2003) to the three Pulaski County school districts from 2004-05 to the current school year (2010-11) has increased by nearly \$30 million.
- f. In addition, school districts now receive additional State funding targeted specifically to students who may face additional burdens that put their academic performance at risk, known as “categorical funds.” In particular, NSLA funds provide significant revenue to the Pulaski County districts to improve instructions for students in need. Ark. Code Ann. § 6-23-2305(b)(4) “National School Lunch state categorical funding.”
- g. Many other changes have occurred in the last twenty-four years that have enhanced the educational opportunities available to all students in the State and Pulaski County.

11. In addition, the unitary status of the school districts in student assignments to schools means that the districts have eliminated the vestiges of segregation in student assignments to the extent practicable and are no longer compelled to racially balance the schools. Therefore, the State should no longer be required to fund the M-to-M program and the Stipulation Magnet program.

12. Moreover, the State has substantially complied with its obligations under the 1989 Settlement Agreement and subsequent orders of the Court.

13. The State's primary obligation under the 1989 Settlement Agreement is the payment of money.

14. When it was first agreed to by the State, it was anticipated that the 1989 Settlement Agreement limited the State's liability to something around one hundred million dollars (\$100,000,000).

15. To date, the State has disbursed over one billion one hundred million dollars (\$1,100,000,000) as required by the 1989 Settlement Agreement and subsequent court orders.

16. For these reasons and the reasons explained in the brief filed herewith, the State should be immediately released from its obligations under the 1989 Settlement Agreement and the Court's orders in this case.

WHEREFORE, the State of Arkansas requests that the Court enter an order releasing the State from any and all obligations under the 1989 Settlement Agreement and all Court orders imposing obligations on the State in this case and for all other relief to which it is entitled.

Respectfully submitted,

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Attorney General

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ATTORNEYS FOR STATE OF ARKANSAS AND
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CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2012, 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 March 26, 2012, to the following non-CM/ECF participants:

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