



# ARKANSAS DEPARTMENT OF EDUCATION

Dr. Tom W. Kimbrell  
*Commissioner*

April 20, 2012

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of Education

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Dr. Jerry Guess, Superintendent  
PCSSD  
925 E. Dixon Road  
Little Rock, Arkansas 72206

**Re: Fiscal Distress of the Pulaski County Special School District  
VIA U.S. MAIL AND FACSIMILE**

Dear Superintendent Guess:

On April 11, 2012, I notified you that pursuant to Ark. Code Ann. § 6-20-1908(f), the Arkansas Department of Education (ADE) must evaluate the staffing and fiscal practices of the Pulaski County Special School District (PCSSD) and make binding recommendations to the PCSSD concerning those staffing and fiscal practices. I also requested that you provide me with specific, written recommendations on how the staffing and fiscal practices of the PCSSD should be modified in order to realize \$11 million in cost savings by the end of the 2012-2013 school year. Finally, I asked that your recommendations include ways in which the PCSSD can build a legal fund balance to safeguard the fiscal integrity of the school district in future years and address district costs associated with attaining unitary status. I requested the same information from PACT and PASS.

On April 16, 2012, PACT, PASS and PCSSD provided recommendations for my review. Thank you for your hard work throughout this process. In addressing your proposals, I will first set forth my understanding of the current financial situation facing the PCSSD.

## **BACKGROUND**

On March 30, 2011, the ADE identified the PCSSD as a school district in fiscal distress due to material state or federal audit exceptions or violations. (Ark. Code Ann. § 6-20-1904(a)(2)(D)). The Arkansas State Board of Education (State Board) classified the PCSSD as a school district in fiscal distress on May 16, 2011. On June 20, 2011, pursuant to Ark. Code Ann. § 6-20-1909, the ADE assumed operations of the PCSSD.

On January 19, 2012, based upon a review of the PCSSD's finances jointly conducted by the PCSSD and the ADE, the ADE identified the PCSSD as a school district in fiscal distress based upon the additional indicator of a declining balance determined to jeopardize the fiscal integrity of a school district. (Ark. Code Ann. § 6-20-1904(a)(1)(A)). The ADE noted that during the 2010-2011 school year, the PCSSD experienced a decline in its legal balance of approximately \$5.5 million. On February 13, 2012, the State Board classified the PCSSD as a school district in fiscal distress based upon the additional indicator identified by the ADE.

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Ark. Code Ann. § 6-20-1908 states that a school district shall not be allowed to remain in fiscal distress status for more than two (2) consecutive school years. Therefore, the PCSSD must correct all criteria for being classified in fiscal distress and comply with all ADE recommendations and requirements by the end of the 2012-2013 school year.

Without action, the declining balances of the PCSSD will only increase over time. The projected beginning and ending legal balances for the PCSSD over the next five (5) school years are as follows:

School Year	Beginning Legal Balance*	Ending Legal Balance*
2011-2012	\$4,087,687	\$12,119,121
2012-2013	\$12,119,121	\$3,367,766
2013-2014	\$3,367,766	(\$5,454,657)
2014-2015	(\$5,454,657)	(\$14,409,415)
2015-2016	(\$14,409,415)	(\$23,498,496)
2016-2017	(\$23,498,496)	(\$32,723,912)

\* Data does not account for possible loss or reduction of desegregation funding.

The 2011-2012 ending legal balance includes one-time, non-recurring property tax revenues of \$15.1 million. Without this one-time infusion of revenues, the PCSSD would end the 2011-2012 school year with a deficit of approximately \$3 million.

In 2011-2012, PCSSD staff salaries and benefits comprise approximately eighty percent (80%) of the district’s overall budget. I sincerely appreciate the efforts of the PCSSD staff and administration. The district simply could not function without their hard work and dedication. However, necessary cost savings cannot be realized through actions aimed only at twenty percent (20%) of the district’s budget.

Action for the 2012-2013 school year is critical not only due to the requirements of Ark. Code Ann. § 6-20-1908, but because the PCSSD is projected to spend more than it takes in during the 2013-2014 school year. Ark. Code Ann. § 6-20-2206 does not allow a school district’s expenditures for any fiscal year to exceed the legal revenues for that fiscal year. As indicated by the sharp declines in projected legal balances set forth above, the ADE must consider the projected economic condition of the PCSSD beyond the 2012-2013 school year.

**GOALS**

It is my utmost hope and desire to return control of the PCSSD to whom it belongs – the district’s patrons and locally-elected school board. The ADE has the responsibility to ensure that when local control is restored, the patrons of the PCSSD will have a school district that is fiscally sound, now and for the long term. The ADE cannot adopt short-term approaches that will only serve to postpone

more difficult decisions. Our efforts will have accomplished little if, once local control is resumed, the PCSSD returns to fiscal distress status.

My desired outcome is that the ADE and PCSSD be able to prove the following to the State Board:

- That PCSSD has corrected all indicators of fiscal distress;
- That PCSSD possesses a sufficient fund balance to operate in a fiscally secure and sustainable manner for years to come;
- That PCSSD can fully and completely fund its current desegregation obligations as set forth in Plan 2000 in pursuit of its efforts to attain unitary status; and
- That PCSSD can absorb a loss of, or significant reduction in, state desegregation funding.

**PROPOSALS OF PACT, PASS AND PCSSD**

The PCSSD must identify at least \$11 million in budget reductions for the 2012-2013 school year. Through negotiations, PACT, PASS and the PCSSD administration previously agreed upon approximately \$7,667,800 in savings. I sincerely appreciate the work of all parties in arriving at this important agreement. While \$7,667,800 in savings is significant, it is not sufficient to address the dire economic situation which now confronts the PCSSD.

PACT and PASS propose an additional \$5,887,053 in reductions during the 2012-2013 school year. The PACT/PASS proposal consists of the following thirteen (13) reduction items:

<b>PACT/PASS Reduction Items</b>	<b>Projected Savings</b>
Attrition (125 Teachers)	\$2,503,101
Reduce Cost of Supplemental Salary Schedule for 2012-2013 by Removing Steps 7-11	\$217,526
Reduce Bus Duty Overages*	\$35,002
Discontinue 30-minute Supervision Period before Breakfast (Tutoring)*	\$101,578
Discontinue Cost of Paying Teachers for Lunch/Recess Duty*	\$107,678
Reduce Bus Duty Monitor Stipends by 1/3*	\$132,599

Suspend Movement on the Salary Schedule Based on Professional Growth Classes for 2012-2013	--
Reduce Professional Growth Contracts from 4% to 3% for 2012-2013	\$364,950
Suspend Attendance Incentive Pay for 2012-2013 (Teachers, Administration & Support Staff)	\$102,615
Suspend 50% of Staff Development Compensation for Support Staff	\$172,311
Reduce District "Purchased Services" Budget by 10%	\$1,101,154
Reduce District "Supplies & Materials" Budget by 10%	\$985,960
Reduce District "Capital Outlay" Budget by 10%	\$62,579
<b>TOTAL</b>	<b>\$5,887,053</b>

\*Items are the same as those proposed by PCSSD Administration.

Combined with the previously agreed upon savings, the PACT/PASS proposal projects a total savings of \$13,554,853 during the 2012-2013 school year. Assuming that all of the savings projected by PACT/PASS can be realized, I am concerned that the PACT/PASS proposal would address budgetary concerns that exist only for the 2012-2013 school year.

PACT/PASS proposes \$2,503,101 in savings through the attrition of 125 teachers. It is unclear whether the 125 teacher positions identified by PACT/PASS include the reduction of 77 positions already agreed upon by PACT/PASS and PCSSD. If so, those positions are already reflected in the \$7,667,800 in previously agreed upon savings and would not constitute additional savings for the district. Additionally, the PACT/PASS proposal assumes that 125 teachers will retire at maximum salary and will be replaced by 125 teachers at an average salary. I am not persuaded that these are sound assumptions.

PACT/PASS also proposes \$2,149,693 in savings through a ten percent (10%) reduction in purchased services, supplies and materials and capital outlay expenses. However, these categories include expenses for which PCSSD has little or no control over actual costs (fuel, utilities, repairs, etc.). I am uncomfortable with the projected savings in these areas because they do not account for potential cost increases for PCSSD.

On April 19, 2012, PACT/PASS submitted an addendum to their fiscal distress proposal. In their addendum, PACT/PASS maintain, with certainty, that state

desegregation funding to PCSSD will continue. PACT/PASS further maintain, again with certainty, that the PCSSD will soon realize some \$22 million in additional transportation revenue from the state’s taxpayers. For these reasons, PACT/PASS appear to request that PCSSD defer important decisions until a later date, arguing that beyond salary freezes for the 2012-2013 school year, “[t]here is no urgency for anything more at the present time.”

I will not attempt to argue the merits of any legal position taken in the long-running desegregation case, nor do I have the luxury to adopt the sense of certainty possessed by PACT/PASS. It is important to note, however, that the PACT/PASS addendum overlooks two key considerations.

First, PCSSD is required, through its Plan 2000, to meet its own desegregation obligations, with or without state desegregation funding. PCSSD remains under court supervision with regard to nine (9) separate components of its desegregation plan. One of the nine plan components requires PCSSD to improve several of its facilities. The first priority for PCSSD must be to become unitary in all of its operations, not for the benefit of the state’s budget, but for the benefit of the district’s students and patrons. PCSSD must be able to satisfy the ADE and the State Board that it possesses the financial resources to carry out its own desegregation obligations.

Second, whether state desegregation funding ends in one year or several years hence, sound budgeting practices dictate that PCSSD should not depend upon state desegregation funding in order to continue its operations. PCSSD must be able to show that it can continue its operations for the benefit of its students with or without state desegregation funding.

The PCSSD administration’s proposal includes \$6,667,680 of the previously agreed upon reductions and additional reductions of \$4,085,903 for the 2012-2013 school year, with additional cost reductions of \$1,427,249 in 2013-2014 and \$1,006,340 in 2014-2015. The additional \$4,085,903 proposed by the PCSSD administration includes cost savings from proposed modifications to the PACT and PASS Professional Negotiations Agreements (PNAs). The PCSSD administration’s proposal projects cost reductions in the following amounts, over the following school years:

2012-2013	\$10,753,583
2013-2014	\$12,180,832
2014-2015	\$13,187,172

The PCSSD administration proposal also includes projections for how the district’s budget would reflect a loss of approximately \$11.6 million in desegregation funding. It appears that the PCSSD administration’s proposal takes into account a possible total loss of state desegregation funding in one year, followed by future efforts to increase the district’s fund balance.

It was my sincere hope that the PCSSD administration, PACT and PASS would jointly negotiate an agreement that would set the district on a path toward financial solvency. However, the negotiations between PCSSD, PACT and PASS are now at a stalemate. It is my understanding that PACT and PASS will not consent to even discuss with PCSSD several items in the PNAs that could result in significant financial savings to the district – savings that are necessary if PCSSD is to remove itself from fiscal distress.

I would have preferred that PACT, PASS and PCSSD arrive at a mutually-acceptable agreement because that would have been the best outcome for the district's students, staff, administration, patrons. Regrettably, that did not occur. If PCSSD is to return to local control as a district that is fiscally sound now and in the future, significant action must be taken without further delay. In this regard, the PCSSD administration must be given the flexibility to swiftly implement several necessary actions aimed at removing the district from fiscal distress within one year.

#### **ADE BINDING RECOMMENDATIONS**

Based upon the foregoing and pursuant to Ark. Code Ann. § 6-20-1908(f), the ADE makes the following recommendations which are binding on the PCSSD. You are hereby directed and authorized to take the following actions:

1. PCSSD will withdraw recognition of PACT and PASS as the collective bargaining units for the district's licensed and classified staff.
2. PCSSD will terminate the PNAs for PACT and PASS. However, PCSSD will continue to observe the compensation/fringe obligations of individual employee contracts until June 30, 2012.
3. PCSSD will implement personnel policies for certified personnel and support staff.
4. PCSSD will implement all items identified in its revised fiscal distress improvement plan.

I trust that you will implement these binding recommendations with fidelity, cooperation and good faith. Together, we can send a message to the patrons of the PCSSD that their district is worth saving and that we will not compromise on the educational opportunities available to the district's students.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom W. Kimbrell", with a long horizontal stroke extending to the left.

Tom W. Kimbrell, Ed.D.  
Commissioner

cc: Mr. Emry Chesterfield, President, PASS  
Ms. Marty Nix, President, PACT  
Ms. Kathleen Crain, Assistant Commissioner, Fiscal & Admin. Services  
Ms. Hazel Burnett, ADE Coordinator, Fiscal & Admin. Services