

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
HOT SPRINGS DIVISION

RON AND KATHY TEAGUE, et al.

PLAINTIFFS

V.

CASE NO. 6:10-CV-6098

ARKANSAS BOARD OF EDUCATION, et al.

DEFENDANTS

CAMDEN FAIRVIEW SCHOOL DISTRICT, et al.

INTERVENORS

**INTERVENORS' MOTION FOR A LIMITED STAY**

Come the Intervenors, Camden Fairview School District No. 16 of Ouachita County and El Dorado School District of Union County, through undersigned counsel, and for their motion for a limited stay in this matter, state:

1. As matters now stand, the Intervenors have no intention of filing an appeal in this case.
2. The Intervenors believe, however, that it would be appropriate for this Court to stay its order to the extent such a stay will provide an opportunity for the Arkansas General Assembly and the Arkansas Department of Education to cure the constitutional infirmity identified by this Court. The Arkansas General Assembly meets in regular session in January of 2013.
3. The Intervenors also believe it appropriate to take carefully measured steps to protect the rights and educational status of individuals who attended school in 2011-12 pursuant to a choice transfer under the terms of the Arkansas Public School Choice Act of 1989 (hereinafter "the 1989 Act").
4. As explained in the brief filed herewith and the Intervenors' responses to motions for

stay filed by the Plaintiffs and the State Board Defendants, the Intervenor believe this Court reached the only possible conclusion of law on the issue of severability, properly holding that, when read as a whole, “[t]he Arkansas Public School Choice Act of 1989 makes clear that the Arkansas General Assembly’s intent in passing the Arkansas Public School Choice Act of 1989 was to permit student transfer in order to provide choices for parents and students and to foster better school performance – as long as those transfers do not adversely affect the desegregation of either district.” Memorandum Opinion and Order, *Teague et al. v. Arkansas Board of Education et al.*, No. 6:10-CV-6098-RTD, Document 98, June 8, 2012, at 29-30.

5. As also explained in their response and brief, the Intervenor believe that there is virtually no possibility that the Plaintiffs “will succeed on the merits” in their appeal, which the Court of Appeals for the Eighth Circuit has repeatedly described as “the most important factor” in consideration of a request for a stay. *See, e.g., Brady v. National Football League*, 640 F.3d 785, 789 (8th Cir. 2011). There are also serious questions about the extent to which the individual plaintiffs will suffer “irreparable harm” if their motion for a stay is denied and whether the alleged potential harms to third parties or the public interest justify a stay.

6. The Intervenor believe, accordingly, that the Plaintiff’s Motion for Stay Pending Appeal should be denied in its entirety.

7. The Intervenor request that the Court grant a limited stay to permit continued attendance of students who actually attended non-resident districts in 2011-12 under the 1989 Act. In so doing, however, the Intervenor request that the Court make clear that its injunction bars all new applications for first time attendance in 2012-13 under the 1989 Act. To the extent this is the same relief requested by the State Board Defendants in their stay request the Intervenor do not

oppose that relief. To the extent the relief requested by the State Board Defendants is inconsistent with the Intervenor's requested relief, the Intervenor's oppose the State's motion.

8. For the reasons stated in their brief, the Intervenor's request that the Court hold its order herein in abeyance to permit the Arkansas General Assembly and the Arkansas Department of Education an opportunity to cure the identified constitutional infirmity in school choice during the 2013 regular legislative session.

WHEREFORE, the Intervenor's request that the Plaintiffs' Amended Motion for Stay Pending Appeal be denied in its entirety; that this Court issue a limited stay of its judgment, allowing students who attended a non-resident school district under choice transfers during the 2011-12 school year to remain in the districts to which they have transferred (if they so wish), making clear its injunction bars approval of all new applications for transfers under the 1989 Act for first time attendance during the 2012-13 school year; and that this Court suspend further proceedings in this matter until the Arkansas General Assembly has had a chance to cure the constitutional infirmity identified by the Court. The Intervenor's also request all other relief to which they may be entitled whether or not herein specifically requested.

Respectfully submitted,

Camden Fairview School District and  
El Dorado School District

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**CERTIFICATE OF SERVICE**

I, Whitney F. Moore, do hereby certify that I filed the foregoing on the Court's CM/ECF system which shall send notification of such filing to:

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on this 18th day of June, 2012.

**/s/ Whitney Moore**  
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