

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

**LITTLE ROCK SCHOOL DISTRICT**

**PLAINTIFF**

**V.**

**NO. 4:82CV00866DPM**

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

**DEFENDANTS**

**FEBRUARY 1 STATUS REPORT OF PCSSD**

On December 10, 2012, this Court ordered the Pulaski County Special School District (PCSSD) to submit a Status Report concerning Plan 2000 compliance and tasks remaining to be accomplished and to submit the report by February 1, 2013. The following report, organized by sections of Plan 2000 in which the court has yet to declare the PCSSD fully unitary, is the PCSSD response to the court's order. The "compliance" status noted in each section was that found by Judge Miller, not necessarily that which the District currently believes.

Many of the "bullet points" represent distillations of other reports, memoranda, and other records of tasks carried out regarding implementation of Plan 2000. Many district personnel contributed to the content of this report, which was done under the supervision of Dr. Brenda Bowles, Assistant Superintendent for Equity and Pupil Services.

The District believes it has attained substantial plan compliance in the areas of Staffing, Special Education, One-Race Class Reports and Secondary Gifted and Talented, Pre AP and AP so as to be adjudicated unitary and eligible for release from court supervision. Currently, the PCSSD suggests that discovery be phased so that Special Education is first addressed, followed by One-Race Class Reports and then Staffing and Secondary Gifted and Talented, Pre AP and AP and that the individual hearings for these areas be set in the same sequence.

The PCSSD would note that lead counsel for Joshua is currently unavailable to discuss a discovery and briefing schedule.

**C. Assignment of Students**

**Plan Provision**

(1) The PCSSD will continue to implement the current standards for the assignment of students to schools within the District. The PCSSD will inform the Joshua Intervenors of the documents which set forth the details of the existing plan. This notice will be provided within 30 days of the Court's approval of this plan.

**Compliance Status – Met Standard. Judge Miller concluded that:**

**Pulaski County has been successful in meeting the plan standard for student assignment required under this section. Order dated May 19, 2011 @ 48. (Hereafter “Order”)**

- PCSSD continues to implement the standard that sets a minimum African-American enrollment of 20% in each school.
- The guidelines set a targeted maximum African-American enrollment of plus or minus 25% of the district-wide African-American enrollment by organizational level. Applied to the 2011-2012 school year, the formula set a targeted range of 20% - 48% for elementary schools and 20% - 60% for secondary schools.
- For the 2012-2013 school year, the formula set a targeted range of 20% - 49% in elementary schools and 20% - 60% for secondary schools.
- During the 2011-2012 school year, 18 of 23 elementary schools and 11 of 12 secondary schools were within the targeted range for racial composition. During the 2012-2013 school year, 17 of 23 elementary schools and 9 of 12 secondary schools were within the targeted range.

(2) The PCSSD shall submit not later than October 15 in each school year a report concerning one-race classes. The report shall set forth for each such class: (i) the school, (ii) the class including the grade level, (iii) the racial make-up of the class, (iv) a description of the steps taken to eliminate the particular one-race class and the reason(s) why this proved to be infeasible. The PCSSD shall submit not later than March 1 of each school year a similar, supplemental report concerning any one-race classes in courses commencing in the second semester of the school year.

**Compliance Status – Has not met standard. Judge Miller concluded that:**

**The one-race class reports presented by Pulaski County during the hearing are inadequate...they failed to meet the requirements of the desegregation plan. First, it should be noted that a number are missing. Second, the majority of the reports fail to include a description of steps taken to eliminate one-race classes or the reasons it may be infeasible to eliminate such. Order @ 48-49.**

- Pulaski County Special School District One-Race Report(s) were provided to the Board on September 30, 2011 (elementary) and October 10, 2011(secondary); February 1, 2012 (secondary) January 23, 2012 (elementary); October 2, 2012 (secondary) and September 21, 2012 (elementary); January 24, 2013 (elementary); January 29, 2013 (secondary), which meets the October 15 and March 1 deadline.
- The Assistant Superintendent for Equity and Pupil Services performs an audit of each section of Plan 2000. Section C. Student Assignment – One-Race Classrooms were

audited during the first semester of the 2012-2013 school year, on October 22, 2012. That audit included meeting with those parties with Plan 2000 responsibilities to continue implementation/compliance with Section C. Student Assignment – One-Race Classrooms commitments. Responsible parties provided processes and evidence of strategies currently in place to eliminate one-race classes.

- During the audit process, revisions were made to the one-race classroom reporting format which includes reporting one-race classroom data only, not gender or racial isolation data (per Plan 2000); using the number of classes as opposed to an “x” and identifying the race; to discontinue including Bayou Meto Elementary School data in the report because the Court has identified Bayou Meto as a racially isolated school (see memo dated November 27, 2012). Many of the classes at the elementary level included in the report were at Bayou Meto Elementary. The District has also reduced the number of Special Education inclusion classrooms from four core subject areas to two, English and Math. PCSSD continues to efficiently allocate students to reduce class sizes.
- In the wake of the findings of Judge Miller, the PCSSD, now under new leadership, revisited the last four years of these reports. This reexamination revealed several statistical problems, including a significant skewing of the outcomes because of the historical low enrollment of African-American students at Bayo Meto Elementary School, a school that was declared racially isolated by the courts at the very beginning of this case. The District also uncovered confusion and errors in the reporting, which have been noted and corrected. Finally, the District set about to reduce the seven previous reports to one updated, comprehensive report which is attached as Exhibit “1.”

#### **D. Advanced Placement, Gifted and Talented, and Honors Programs**

##### **Plan Provision**

Not later than 45 days after the Court’s approval of this Plan, the PCSSD will provide to the Joshua Intervenors the standards then in place for selecting secondary students for and educating them in advance placement, gifted and talented, and honors programs, including standards to promote racial diversity in these programs. The PCSSD will include in this submission notices which are used to inform staff members of the relevant standards.

##### **Compliance – Did not meet standard. Judge Miller found:**

**Now, in determining whether Pulaski County has substantially complied in good faith with its plan obligations, one cannot simply look at the hard data. One must also examine the processes Pulaski County has enacted to attempt to erase the disparities in the number of white and black students participating in TAG, PreAP and AP courses. As stated before, the District simply failed to show that it has done anything to implement the eight goals set forth in the 1998-1999**

**Guidelines and has failed to show that it acted in good faith or substantially complied with its plan obligations. Order @ 33.**

**Note: It is important to recall that the District was declared unitary in Elementary Gifted and Talented as of 1996. This is significant in terms of the Secondary Gifted and Talented program. Once a child has been identified as gifted and talented, that child is permitted, if he or she elects, to continue in the program through graduation from high school. The fact that one group may have elected not to participate beyond its elementary school years in the same proportion as some other group does not by itself show a lack of plan adherence or lack of good faith by the PCSSD.**

To correct the deficiencies found by Judge Miller and achieve the plan goals, the District has, during the last two years:

- Implemented goals set forth in 1998-1999 Advanced Placement handbook to address racial disparities in ALPHA, Talented and Gifted (TAG), PreAP, and AP courses.
- Developed a plan to utilize the eight AP guidelines and recruitment strategies (June 27, 2011).
- Developed a comprehensive plan to address racial disparity in TAG programs. (August 22, 2011.)
- Developed a monitoring tool, using the Plan 2000 Section D Gifted and Talented and Honors Program documentation template, to monitor each school's enrollment and whether standards are being met. Met with each school principal to discuss the data by December 1, 2011.
- Updated and Fall Enrollment report on black student enrollment in Pre-AP and AP courses (July 26, 2012 and Oct 3, 2012).
- Updated TAG Compliance Handbook provided to principals, Director of Secondary Education, Director of Counseling, and Assistant Superintendent for Equity and Pupil Services (September 10, 2012).
- Provided professional development to principals and counselors to advise and review Plan 2000 Section D and the eight recruitment strategies to improve black enrollment in advanced placement courses. (September 10, 2012, November 27, 2012, December 12, 2012, and December 13, 2012).
- Conducted visits with principals to advise and review Plan 2000 Section D, the eight AP guidelines and recruitment strategies to improve black enrollment in advanced placement courses (September and November, 2012).
- All African-American students who are proficient and/or advanced at schools that are out of compliance are tested for placement in the TAG Program. Students who were tested and not placed are given enrichment and reconsidered for placement.
- The AP Potential Computer Program, through College Board, is utilized to identify African-American students for AP courses and generates a list of recommended AP courses in which the student would be successful. It also generates a parent letter that is sent home with each student.

- The Status of Implementation/Compliance Audit was completed on October 25, 2012.
- Completed an update on the status of compliance with Section D, AP, TAG, and Honors Programs (October 23, 2012).
- Summary of the TAG Enrollment Status Report of June 2012; an action plan was created to address enrollment of black students in PreAP, AP, and Honors Programs August 29, 2012.
- Submitted Annual Fall Enrollment in Talented and Gifted Report to board. Copies were provided to ODM, ADE, and Joshua (October 3, 2012).
- Summary narrative of the eight AP guidelines and recruitment strategies to improve black enrollment in advanced placement courses presented to counselors, Learning Services, Superintendent and Assistant Superintendent for Equity and Pupil Services (January 10, 2013).

**E. STUDENT ASSIGNMENT: INTERDISTRICT SCHOOLS - The PCSSD was declared Unitary in this area as of May 19, 2011. Order @ 58.**

#### **F. Discipline**

**Judge Miller analyzed the Discipline section pursuant to the six discreet subsections, a-f. He further articulated the reasons why the District did not satisfy three of the subsections.**

#### **Plan Provision**

1. The PCSSD will continue to gather data which allows a full assessment of its success in achieving its objective of eliminating racial disparities in the imposition of school discipline. As a foundation for this effort, disciplinary records will be kept on each student concerning the nature of any discipline imposed (suspension, Saturday school, expulsion, etc.); the teacher and staff member involved; and the school, race, and sex of the student.

#### **Compliance Status – Met standard regarding data collection.**

- PCSSD has maintained the requisite records and data in discipline since 2000. Order @ 63.
- Discipline reports are submitted to the Board, ODM, and Joshua in March (First Semester Discipline Report) and August (Annual Discipline Report Summary); the Discipline reports were submitted accordingly: 2010-2011 First Semester Discipline Report – March 8, 2011; 2010-2011 Annual Discipline Report Summary – July 18, 2011; 2011-2012 First Semester Discipline Report - February 14, 2012, and 2011-2012 Annual Discipline Report Summary – July 24, 2012.
- Beginning with the 2004-2005 school year, discipline reports began including additional data, data analysis, and recommendations.
- Assistant Superintendent for Equity and Pupil Services in-service for principals on Section F. Discipline of Plan 2000 during principals' meeting (January 9, 2013).
- Director of Equity and Pupil Services completed five-year analysis of discipline data for African-American students; data was presented to the District Discipline Committee (January 28, 2013).

## Plan Provision

2. Not later than 45 days after the Court's approval of this Plan, the Assistant Superintendent for Desegregation will submit to the Joshua Intervenors, for comment, proposed criteria for identifying, from the data collected: (1) teachers and other staff members who are experiencing problems which require attention; (2) schools which have atypically high discipline rates; and (3) schools which have atypically high racial disparities in discipline. The Joshua Intervenors will have 21 days to provide comments on these proposed criteria. The PCSSD will then complete the criteria promptly.

## Compliance Status – Met Standard. Judge Miller noted that:

**Although Pulaski County did not meet the 45 day deadline, criteria for identifying the three categories listed above were developed and provided to Joshua. Joshua acknowledges this in its proposed findings of fact and conclusions of law. Order @ 63.**

- Even though the 45-day time limit was not met, the criteria were submitted in compliance with the plan requirements.
- In order to continue compliance with this provision, the District has performed the following tasks:
- Met with principals to develop a Discipline Development Plan (DDP), which was completed February, 2012.
- Assistant Superintendent for Equity and Pupil Services conducted and completed Plan 2000 Section F Discipline Status of Implementation and Compliance Audit (August 10 - 24 2012).
- District contracted service with Dr. Mack Hines, who provided professional development during Trainer of Trainers to principals and teachers entitled Just Cause Disciplinary Moments and African-American Students (July 25, 2012).
- Just Cause Disciplinary Moments and African-American Students professional development training was provided District-wide (August 15, 2012).
- Dr. Bowles and Mr. Whitfield, Director of Equity and Pupil Services, visited each school to review their discipline data and Criteria 3: School Climate of their ACSIP Plan. Data was provided to each principal of identified staff members (completed October 2012).
- Discipline Data Alerts were sent to principals whose discipline rates increased during the first quarter of the previous school year compared to the first quarter of the current school year. The Alert is utilized to outline strategies/interventions for reducing discipline rates and disparate discipline (December 18, 2012).
- Director of Equity and Pupil Services and his team provided professional development to schools with atypically high discipline rates during PLCs on how to work with African-American male students. School staff received training on “Strategies for Working with African-American males” during PLCs. Training was completed in May. Status report was submitted June 15, 2012.
- PLCs included Real Talk (Larry Daniels), Working with Black Males, which is based on the work of Dr. Juuwanza Kunjufu (Brent Mitchell); and Practical, Effective,

Research-based Strategies on how teacher practices can facilitate student awareness in making better choices, i.e. self discipline, interacting with peers (Karen McDonald).

- Division for Equity and Pupil Services met with ODM and ADE on June 20, 2012, to discuss and provide a copy of the Status Report on “Strategies for Working with African-American Males” (June 20, 2012).

### **Plan Provision**

3. The Assistant Superintendent for Desegregation and the Assistant Superintendent for Pupil Personnel will thereafter provide for and participate in specific efforts to work with teachers and other staff members and the personnel of schools, identified pursuant to the criteria set forth in paragraph 2, to promote achievement of the goal of eliminating racial disparities in school discipline. The Assistant Superintendent for Desegregation will maintain records showing the specific steps undertaken.

### **Compliance Status– Plan requirements not met. Judge Miller noted in part that:**

**[a]dditionally, even if the actions taken by Pulaski County through ACSIP Plans, DMPs and Pathwise were enough, the implementation of these actions has been too brief to find Pulaski County unitary under this section. For the first five years of Plan 2000, Pulaski County did little to nothing to comply with this subsection.**

**It is clear that very little is being done to identify and meet the issue of individual teachers and staff members with problems and discipline. Order @ 66.**

To remedy these deficiencies, the District has engaged in the following efforts throughout the last two years:

- All schools and staff with atypically high discipline have been identified, and a plan for professional development and trainers is in place (Completed February 2012).
- Assistant Superintendent for Equity and Pupil Services and Director of Pupil Services met with principals to discuss discipline data (October 2012).
- One Standard Deviation Above the Mean Conference Form(s) were completed by principals with identified staff; Conference Form forwarded to Assistant Superintendent for Equity and Pupil Services.
- Coordinator of Multicultural and Pathwise led a team of trainers and provided professional development to staff (Cohort I) who were identified as one standard deviation above the mean. This training will consist of the following components: Pathwise, TESA, Multicultural Instructional Strategies, and Managing a Diverse Classroom (January 2012).
- Staff identified (Cohort I) as being one standard deviation above the mean received assistance/diversity training by Dr. Mack Hines (August 13, 2012).

- Identified teachers (Cohort I) received diversity training in February, March, April, and May of 2012.
- Coordinator of Multicultural and Pathwise will lead a team of trainers and provide Professional Development to staff (Cohort II) that were identified as one standard deviation above the mean. This training consisted of the following components: Pathwise, TESA, Multicultural Instructional Strategies, and Managing a Diverse Classroom (November 1, 2012).
- Staff members identified as being one standard deviation above the mean were contacted (October 18, 2012).
- Identified staff (Cohort II) received diversity training in November and December for the first semester (November 1, 2012 and December 5, 2012).
- Discipline Data Alerts were sent to principals whose discipline rates increased during the first quarter of the previous school year compared to the first quarter of the current school year. The Alert is utilized to outline strategies/interventions for reducing discipline rates and disparate discipline (December 18, 2012).
- Continued support through classroom observations of identified staff from Cohort I (January 2013).
- The District contracted with educational consultant service, From the Heart Educational Group to provide professional development to identified groups; a total of 100 African-American male students 50 at Sylvan Hills High School and 50 at Jacksonville High School are participating in a student leadership extension program entitled Purposeful Living Project for Young People.

### **Plan Provision**

4. PCSSD will conduct a comprehensive study of the disciplining of African-American students, particularly male students, at the secondary level. The participants (a minimum of 12), one-half designated by the Joshua Intervenors and one-half by PCSSD and the PACT and PASS, will consider the causes for the high rates of discipline for African-American students and possible remedies. The panel will, among other things: review discipline records to secure an understanding of the circumstances in which African-American students are disciplined; interview and/or survey African-American students regarding their experiences in the system generally and in the discipline process; and consider the possibility of a relationship between unmet academic needs and discipline rates. The written study will be completed not later than 150 days after Court approval of this Plan and will provide suggestions for prevention and intervention measures.

**Compliance Status: Plan 2000 requirements not met. Judge Miller stated that:**

**A draft study narrative that lacks suggestions and intervention measures does not satisfy Pulaski County's obligations under this subsection. Pulaski County's DMP also fails to meet the requirements of this subsection. The DMP is not a comprehensive study of the disciplining of black students. Pulaski County has not complied with this section. Order @ 67.**



**To remedy these deficiencies, the District has engaged in the following initiatives and activities over the last two years:**

- Identified and developed a plan for schools with continued high rates of discipline disparity. Met with principal(s) to review data and develop a plan for corrective action (October 2011). On December 18, 2012, Discipline Data Alerts (DDA) were sent to all schools (25) whose first-quarter discipline for the current school year surpassed their first-quarter discipline for the previous school year. The DDA is used to inform schools of their current discipline standings and the necessity for immediate response and intervention. Schools receiving Discipline Data Alerts (DDA) are required to develop plans which include strategies/interventions for reducing discipline rates and disparate discipline. Those plans are submitted to the Division of Equity and Pupil Services for review.
- Category 3: School Climate site visits began on September 9, 2011, and were completed October 19, 2011.
- In the fall of 2011, the District initiated an agreement with University of Memphis Center for Research and Educational Policy (CREP) to collect and analyze school climate student inventory of 11<sup>th</sup>- and 12<sup>th</sup>-grade black males including discipline responses.
- CREP Report (Section F. (4)) documenting survey responses of PCSSD 11<sup>th</sup>- and 12<sup>th</sup>-grade male African-American students was completed on January 20, 2012 and provided to Superintendent, Deputy Superintendents, and Director of Accountability for review (January 20, 2012).
- A committee comprised of PCSSD administrative staff, PACT, PASS, and Joshua Intervenors was formed to discuss the results of the survey (District Discipline Committee). The committee also reviewed discipline records to secure an understanding of the circumstances in which African-American males are disciplined (Section F. (4)). Joshua did not participate.
- The District Committee met on April 23-24, 2012, and May 9, 2012.
- Developed the Accelerating Curriculum Expectations (ACE) Credit Recovery Program for graduating seniors and Grade Recovery model for Middle School Students (September 5, 2012).
- Credit Recovery Program(s) were piloted at Jacksonville High, Jacksonville Middle, and Mills University Studies High School (Learning Academy) (October 2, 2012).
- The District has contracted with From the Heart Educational Group to conduct a survey for 10<sup>th</sup>- and 11<sup>th</sup>-grade African-American males. Surveys were conducted in September 2012. Results were received and shared with the District's Discipline Committee on November 5, 2012.
- A focus group will also be conducted with 10<sup>th</sup>- and 11<sup>th</sup>-grade African-American male students attending Sylvan Hills and Jacksonville high schools.
- The District Discipline Committee met to review and discuss survey results and develop short-and long-term goal action plan(s) (November 5, 2012).
- District Discipline Committee developed a Theory of Action, which is a tool to measure the implementation of short and long term action plan goals (January 28, 2013).

**Plan Provision: Initiative to reduce discipline.**

5. The PCSSD will develop a specific initiative to reduce the rates of discipline in the PCSSD shown in ODM's report dated March 18, 1998. This initiative will be implemented not later than 150 days after the Court's approval of this Plan.

**Compliance Status – Did not meet Standard. Judge Miller ruled:**

**Although it has implemented multiple initiatives to address student discipline, the implementation has been anything but quick. In fact it took nearly six years following approval of Plan 2000 for many of these initiatives to be carried out. This long delay prevents the finding of compliance with the subsection. Order @ Page 68.**

In order to comply with this provision the District completed the following:

- Even though the District did not meet the 150 day compliance period, since 2006-2007, the District has undertaken a comprehensive discipline management process to monitor and reduce actions by school and by individual staff.

**Plan Provision: Handbook policies.**

6. PCSSD will adhere to the policies set forth in the Handbook for Student Conduct and Discipline, as revised after consultation with the Joshua Intervenors, PACT, and PASS, to provide that students are disciplined in a fair and equitable manner. The Assistant Superintendent for Pupil Personnel will be responsible for determining the fairness of student disciplinary decisions. He will delegate the student hearing function to a single hearing officer who will consider the appeal brought by parents and the position of the administrator making the recommendation and then make a decision based upon equitable factors. An aggrieved student may appeal to the Superintendent of Schools. The Superintendent may review the matter or refer it to the school board for action. The committee approach which utilizes school principals in the student appeal process has been discontinued and will not be reinstated.

**Compliance Status - Met Standard. Judge Miller found that:**

**Pulaski County has complied with this subsection. Order @ 68-69.**

**G. Multicultural Education**

**Plan Provision**

1. The PCSSD will continue its efforts to infuse multicultural instruction in all curriculum areas. All phases of a school's environment (such as instructional materials, lesson plans and lessons, library contents, bulletin boards, extracurricular activities, speaker programs, and food services) will reflect the system's plan to infuse multicultural education.

**Compliance Status – Met Standard. Order @ 73.**

**Plan Provision**

2. The principal activity of the Coordinator of Multicultural Education and the coordinator's office will be on-site visits to individual schools to determine whether the system's policy and the provisions of the Plan are being implemented. The coordinator will maintain records permitting an evaluation of the status of implementation at each school visited.

**Compliance Status – Met Standard: Order @ 73.**

**Pulaski County has substantially complied in good faith with this section of Plan 2000 (Findings of Fact and Conclusions of Law by Judge Miller, May 19, 2012).**

**H. School Facilities**

**Plan Provision**

1. The PCSSD will prepare, with the help of consultants as necessary, a plan so that existing school facilities are clean, safe, attractive, and equal. The plan will address alternatives for funding its implementation. The Board of School Directors will approve a plan not later than 150 days after the Court's approval of this Plan. The Joshua Intervenors will be given a 14 day period to comment on the content of the plan prior to its adoption.

**Compliance Status – Did not meet Standard. Judge Miller concluded:**

**Simply put, the facilities in Pulaski County are not equal. Children who live in predominantly black zones of the district attend older and smaller schools that are less instructionally functional and are less aesthetically attractive. Yet children from the Maumelle and Chenal Valley area are privileged to attend newer, state-of-the art schools. Although the district argues that those schools serve a substantial number of black students, those black students are overwhelmingly interdistrict M-to-M transfers. Without those transfers, the schools in Maumelle and Chenal would be overwhelmingly white. Order @ 77.**

In order to pursue compliance with this provision the District completed the following:

Exhibit 2 details projects that have been performed or are on the drawing board for the near term. While these projects will not satisfy the District's obligation concerning attaining unitary status in Facilities, they are a demonstration of what the District is doing with limited facilities funds. Please see Exhibit 2 for the detail of these projects. Projects listed for the 2012-2013 school year are complete. Projects listed for the 2012-2013 maintenance projects are complete. The District has funded everything above the \$4 million dividing line on the 2013-2014 tab.

The District is also working on various alternatives to replace, remodel, or upgrade its other facilities as appropriate and in a fashion consistent with the principles laid down by the Kahn Study. While funds do not currently exist to perform these projects, the District is nevertheless working on these priorities and plans toward the day when funds become available to pursue these projects.

### **Plan Provision**

2. An elementary school, located around 145<sup>th</sup> Street, and a middle school or junior high school in the Crystal High/Maumelle area will be built. The board will address the development of a plan for new school construction during the term of this Plan if funds are sufficient, including its funding, and report its conclusions not later than 150 days after the Court's approval of this Plan.

Moreover, the PCSSD will not close schools which are located in predominantly African-American areas absent reasons of compelling necessity, which does not include the opposition of white patrons to attending such schools.

### **Compliance Status – Met Standard**

- PCSSD built Bates Elementary, which opened 2000-2001 school year; Maumelle Middle opened during 2005-2006.
- No schools located in predominately African-American areas were closed with the possible exception of Jacksonville Elementary at the end of the 2010-2011 school year. This closure was reported to the ODM and the court along with the proposed reassignment of the students.

### **Plan Provision**

3. The PCSSD will notify the Joshua Intervenors of plans for constructing new schools and for adding capacity to existing schools. The notice will identify the capacity of the proposed facility, the area of the system to be served, and the projected impact on the racial make-up of the students in each school expected to be affected by the new construction. The Joshua Intervenors will have a period of 14 days in which to provide input concerning each such proposal.

**Compliance Status** – It is not clear what Judge Miller's ruling was on this specific provision. See Order @ 73-78.

## **I. Scholarships**

### **Plan Provision**

Within 30 days from the date that the LRSD successfully establishes its own scholarship program, PCSSD shall establish a bi-racial committee to explore a program for providing college scholarships to designated PCSSD students.

**Compliance Status – Did not meet Standard. Judge Miller stated:**

**Pulaski County has simply failed to demonstrate that it substantially complied in good faith with the dictate of this section of Plan 2000. Order @ 78.**

In order to comply with this provision the District completed the following:

- Established a fund for scholarships, i.e. the PCSSD Scholarship Fund.
- Scholarship Committee met on November 3, 2011.
- Revised Board Policy JM-R Scholarships - \$1,000 scholarship for each high school for the 2011-2012 school year.
- Each secondary school has been awarded a \$1,000 scholarship for the 2011-2012 school year for a graduating student post-secondary education.
- The District awarded \$1,000 scholarships to graduating seniors from the six District high schools on May 1, 2012. Scholarship recipients were selected using the Scholarship Scoring Rubric.
- PCSSD Scholarship Announcement and Guidelines for the 2012-2013 school year posted and provided to secondary principals and counselors (December 5, 2012).
- The District allocated \$30,000 to the Scholarship Fund for the 2012-2013 school year.

## **J. School Resources**

### **Plan Provision**

PCSSD shall design and carry out, in consultation with the Joshua Intervenors, a study to determine whether school resources are allocated equitably among the schools of the District. The resources assessed may include such factors as pupil/teacher ratio; pupil/staff ratio; square feet per pupil; percentage of staff with master's degree and nine or more years of experience; the turnover rate of certified staff; school size; computer/pupil ratio; per pupil expenditure; volunteer hours per pupil; and donations per pupil. The study shall contain recommendations, where appropriate, to address any problems identified.

**Compliance Status – Met Standard. Order @ 78-79.**

**Pulaski County acted in good faith and substantially complied with its obligations under Section J of Plan 2000 (Findings of Fact and Conclusions of Law by Judge Miller, May 19, 2012).**

## **K. Special Education**

### **Plan Provision**

1. Not later than 45 days after the Court's approval of this Plan, the PCSSD will provide to the Joshua Intervenors the standards then in place for: (1) stressing intervention strategies and regular class modifications in an effort to prevent inappropriate referrals of black males and kindergarten students; (2)

monitoring the folders of all kindergarten students and black students who are being considered as in need of special education under IDEA and Section 504 to insure nondiscrimination in evaluation and placement. The PCSSD will include in this submission materials which are used to inform staff members of the relevant standards.

**Compliance Status – Did not meet Standard completely.**

In order to comply with this provision the District completed the following:

- Met 45-day deadline – This deadline was met. Order @ Page 81.
- Each school in the district is required to have a screening committee. The purpose of the screening process is to promote referrals of students to special education based on educational needs and does not discriminate against black students. In addition, it will stress intervention strategies and regular class modifications in an effort to prevent inappropriate referrals of black males and kindergarten students.
- The District has in place a Review Committee. The purpose of the review committee is to monitor the folders of kindergarten and black students who are being considered for services in special education under IDEA and Section 504 to promote non-discrimination in evaluation and placement procedures.
- Agendas and sign-in sheets are maintained to document staff development provided to District personnel outlining the purposes of screening, early intervention, due process, behavior modification/management, etc. in order to effectively implement Individualized Education Programs (IEPs).
- Special education staff monitors student folders for compliance with Special Education or Section 504 service requirements.

**Plan Provision**

2. The Director of Special Education will develop a specific plan for additional monitoring each year, by his/her staff, of schools where there are atypically high racial disparities in special education classification, generally or as to black male students. The PCSSD will provide a copy of this plan to the Joshua Intervenors, which will include criteria for identifying schools for monitoring.

**Compliance Status – Did not meet Standard. Judge Miller held that:**

**The second part of this section requires that plans be established for additional monitoring of schools with atypically high racial disparities in special education. The actions listed by the monitoring plans address the issue of racial disparity only generally. Multiple schools each year are above the 8.3 percent standard deviation; however, no action has ever been taken with respect to these individual schools. Pulaski County has therefore simply failed to act in good faith and has failed to substantially comply with this section of Plan 2000. Order @ 83.**

In order to comply with this provision the District completed the following:

- Agendas and sign-in sheets are maintained to document staff development for administration on desegregation efforts.
- Copies of revised job and program descriptions, corrective action plans for the 2010-2011 school year and teacher/principal checklists provided to Assistant Superintendent for Equity and Pupil Services (October 14, 2011).
- Revised job descriptions were approved by Executive Director of Human Resources and Assistant Superintendent for Equity and Pupil Services.
- Memos were sent to principals of identified schools (October 28, 2011, and October 23, 2012)
- Specific monitoring of schools with atypically high racial disparities including quarterly reporting and data gathering is being conducted.
- In addition to the Director of Special Education, Special Education Coordinators reinforce monitoring guidelines regarding screening, referral, evaluation and placement processes especially of buildings over the 8.3% standard deviation.
- Assistant Superintendent for Equity and Pupil Services conducted and completed Plan 2000 Section K Special Education Status of Implementation and Compliance Audit (October 29, 2012).
- Copy of corrective action plans received on January 31, 2012; copy of correction action plans for first quarter (November 1, 2012).

## **L. Staff**

### **Plan Provision**

1. The PCSSD will recruit applicants for each available administrative position, by internal and external means, in a manner designed to broadly communicate its availability and to develop a racially diverse pool of applicants. The Assistant Superintendent for desegregation will, with the cooperation of the Assistant Superintendent for personnel, be informed of the make-up of each such applicant pool and they will have the authority to direct that additional recruitment take place prior to the offering of the position to a particular applicant.

Recruitment for Administrative Positions

**Compliance Status – Did not meet Standard. Judge Miller stated:**

**Pulaski County has not identified how it sought to increase the number of black administrators hired from outside the district nor has it shown the steps it has taken to groom promising black teachers for administrator positions.” Order @ 84.**

In order to comply with this provision the District completed the following:

- A district job fair is held each spring for recruitment: (April 26, 2013, February 26, 2011, February 27, 2010, February 28, 2009, February 9, 2008, and February 17, 2007).
- Employment ads are placed in local newspapers, radio, and publications.
- Memos submitted for approval of Biracial Interview Committee(s) and Applicant Pool to Assistant Superintendent for Equity and Pupil Services.
- The Assistant Superintendent for Equity and Pupil Services and the Executive Director of Human Resources approve all job postings.
- Memo notification with Administrators Interest Survey attached sent to principals, assistant principals, Executive Director of Human Resources, and Assistant Superintendent for Equity and Pupil Services (December 18, 2012).

## **Recruitment of Teachers**

### **Plan Provision**

2. The PCSSD will engage in recruitment so that new teachers are selected from a racially diverse pool of applicants. The Assistant Superintendent for Desegregation will monitor the recruitment process so that recruitment is extensive and sustained, and the hiring process so that no policy, practice, or custom has the purpose or the effect of imposing an upward limit on the proportion of black teachers.

### **Compliance Status – Did not meet Standard. Judge Miller held that:**

**This subsection specifically requires affirmative monitoring of teacher recruitment. Therefore, to substantially comply in good faith, the district must produce some tangible evidence that it collected and analyzed data on minority recruitment strategies and sought to implement those findings. It has not done so. Order @ 86.**

In order to comply with this provision the District completed the following:

- Building-level administrators are made aware of their teacher minority (black) percentage during hiring and placement of certified staff.
- PCSSD Minority Certified Staff Report
- Minority Teacher and Administrator Recruitment Report (October 15, 2012)
- All staffs are monitored for their racial make-up.
- The District Hiring and Deployment Report is submitted annually (February 1, 2012, June 21, 2012, and February 2013).
- Binders are given to highly qualified African-American teachers in core areas.
- Interest meetings are held to provide information on becoming certified teachers in early childhood and secondary core areas. Sign-in sheets and agenda are on file - Teach Arkansas information session (November 3, 2012).

A support staff follow-up fall survey was sent to African-American non-certified employees interested in obtaining AR Teacher Licensure (December 12, 2012).



## **Address Disparities in Specialty Areas**

### **Plan Provision**

3. The PCSSD will continue to implement programs, policies and/or procedures which result in an increase in the number of African-American early childhood teachers, primary grade teachers, and secondary core teachers, including offering incentives for African-American teachers to obtain certification in these areas, and to assign those teachers to the PCSSD schools where the greatest disparity exists.

**Compliance Status – Did not meet Standard. After reviewing the statistical outcomes of the PCSSD over time, Judge Miller held:**

**Although not dispositive by themselves, these numbers are telling. They demonstrate a complete lack of commitment to creating more parity in the identified teaching areas. This is confirmed by a record devoid of meaningful attempts to address the situation. Pulaski County has clearly not met its burden to show that it substantially complied with this subsection in good faith. Order @ 89.**

In order to comply with this provision the District completed the following:

- A District program to grow African-American teaching staff was created. Possible candidates were identified. Candidates must pass PRAXIS I and II and be accepted into a teacher education graduate program at an accredited college or university; agenda and sign-in sheet provided (October 6, 2011).
- Racially identifiable schools are established on an average both the elementary and secondary levels for a mean of African-American teachers and wherein the range regarding that the mean does not do beyond 25% or below it.
- Letters were sent to principals of schools identified as racially identifiable. The letter established the hiring guidelines for any open certified positions at any racially identifiable schools (November 9, 2012, and December 10, 2012).

### **Plan Provision**

4. The PCSSD will allocate teachers and other professional staff in a manner which avoids the racial identification of schools.

**Compliance Status – Did not meet Standard. Judge Miller found:**

**For all of these reasons, the district has not proved that it recruited and allocated black teachers and administrators in accordance with the plan. If one piece of evidence can summarize the enduring state of affairs regarding staffing Pulaski County, it would surely be the district's own report**

**entitled “Appendix IX to the 2009-10 Annual personnel Hiring and Deployment Report. Pulaski County Ex. 77J. The data show that in 1984-1985, the earliest dates of record, Pulaski County’s student enrollment was 23.6 percent black and its professional staff was 21.7 percent black. Id. Over twenty-five years later, the district is 44 percent black. Id. Yet the percentage of black professional staff remains at 21.1 percent. Id. Order @ 92.**

In order to comply with this provision the District completed the following:

- Developed a working definition for “racially identifiable schools” with Dr. Bradley Scott, Director, Intercultural Development Research Association (IDRA) in collaboration with PCSSD’s Director of Human Resources, Coordinator of Equity Initiatives, and Assistant Superintendent for Equity and Pupil Services (October 11, 2011). *Definition: Racially identifiable schools are established on an average on both elementary and secondary levels for a mean of black teachers and wherein the range regarding that the mean does not go beyond 25% above or below it. When the targeted staff range is exceeded by 25% above or below the mean of black teachers at the relevant elementary or secondary organizational level, that campus will be considered racially identifiable.*
- School Profile Analysis and individual school reports completed and provided to Joshua and ODM (November 30, 2011, and November 16, 2012).
- Director of Human Resources provided principals with a second copy of their school profile analysis. This analysis will guide staffing for the 2012-2013 school year (January 18, 2012, and February 7, 2012).
- The Annual Deployment and Recruitment Report was modified to include PCSSD core teachers by race, gender, and location, effective during the 2011-2012 school year.
- An addendum to the 2011-2012 Annual Recruitment and Deployment Report was created to identify black and non-black certified teachers in core areas by organization levels. See appendices I-VIII and the addendum to the Annual Recruitment and Deployment Report for the 2011-2012 school year (memo dated January 25, 2013).

## **M. Student Achievement**

### **Plan Provision**

1. The PCSSD will implement the plans designed to improve student achievement, recommended by Dr. Stephen Ross, and will work with Dr. Ross in their implementation.

**Compliance Status – Did not meet Standard completely. Judge Miller found:**

**Overall, the data and testimony indicate that Pulaski County is increasing student achievement across the board, which means it is January 29, 2013 (secondary) meeting one of the goals set by the Ross Plan. The data and the testimony, however, do not indicate that Pulaski County is making a good-faith effort to specifically target the achievement gap between black students and white students. In order to comply with the terms of the Ross Plan, Pulaski County needs to focus on implementing and documenting intervention programs that are specifically targeted at narrowing this achievement gap. Order @ 99.**

In order to comply with this provision the District did the following:

- The District continues to work with the University of Memphis (CREP) to implement the Education Plan. This process includes:
  - SCI student and teacher surveys, School Observation Measure (SOM) visits at every school, Comprehensive School Reform Design (CSR) benchmarks, and the annual CREP Report for each school.
- Section M Student Achievement Status of Implementation/Compliance Audit (October 2012). Audit was completed January 24, 2013.
- To reduce the number of discipline problems and increase student attendance and reduce suspensions and grade retentions regardless of race or background, the District has utilized SCI School surveys/Annual CREP Report; Local School ACSIP Plan-School Climate; DMP; Annual Discipline Report; PCSSD RTI 2012-2013; SAC-In School Suspension; Saturday School; Multiage Program; Mental Health Providers; Professional Development Training – Trainer of Trainers: Dr. Mack Hines provided professional development during Trainer of Trainers to principals and teachers entitled Just Cause Disciplinary Moments and African-American Students (July 25, 2012, August 15, 2012, November 1, 2012, and December 5, 2012).
- A committee comprised of PCSSD administrative staff, PACT, PASS, and Joshua Intervenors was formed to discuss the results of the survey (District Discipline Committee). The Committee also reviewed discipline records to secure an understanding of the circumstances in which African-American males are disciplined (Section F. (4)). Joshua did not participate. The District Committee met on April 23-24, 2012 and May 9, 2012.
  - Developed Grade Recovery model for Middle School Students (September 5, 2012).
  - Developed the Accelerating Curriculum Expectations (ACE) Credit Recovery Program for graduating seniors - Credit Recovery Program(s) were piloted at Jacksonville High, Jacksonville Middle, and Mills University Studies High School (located at the Learning Academy) (October 2, 2012).
  - The District contracted with the From the Heart Educational Group to conduct a survey for 10<sup>th</sup> and 11<sup>th</sup> grade African-American males. Surveys were conducted

in September 2012. Results were received and shared with the District's Discipline Committee on November 5, 2012.

- A focus group is being conducted with 10<sup>th</sup>- and 11<sup>th</sup>-grade African-American male students attending Sylvan Hills and Jacksonville High Schools.
  - The District Discipline Committee met to review and discuss survey results and develop short and long term goal action plan(s) (November 5, 2012). The Committee continues to meet to review the status of action plan(s) (January 28, 2013).
- 
- Student Achievement is assessed by student performance and program placement data from interim assessments (TLI), state benchmark and End-of-Course Assessments, student Grade Point Averages and promotion/retention data.
  - Elementary Promotion/Retention Policy was revised.
  - Student interventions include tutoring, peer tutoring, mentoring, extended instruction, after school programs, Credit Recovery and Grade Recovery (piloted in Fall of 2012).
  - Local School ACSIP Plan completed annually and approved by District Steering Committee.
  - The District Steering Committee meets every month to review local schools' ACSIPs, CSRD Benchmarks, scoring rubrics for each school, etc.
  - Assistant Superintendent for Equity and Pupil Services held in-services for principals on CSRD Benchmarks (September 21, 2011).
  - (Cognos) reports are utilized to compare student enrollment and program placement in identified programs.
  - Executive Director of Accountability consulted with LRSD Program Evaluation Office regarding District-wide program evaluations and software on December 5, 2012; District-requested RFPs for software have been submitted, and the proposal was approved by the Commissioner of Education.
  - The District defined achievement gap based on the definition contained in the Research Group Report (December. 1, 2006).
  - The District revised its Scoring Rubric for Evaluation of ACSIP Alignment with Plan 2000 to include Education Plan goals, (October 2011); minor revisions were made to the scoring rubric (November 2012).
  - Seven-year analysis of Closing the Achievement Gap has shown overall progress, however there are instances where the gap may widen or experience a plateau. At the elementary level we see a greater reduction of achievement gap than at the secondary level. The Executive Director of Accountability shared this analysis with the District Discipline Committee (January 28, 2013).

**Plan Provision**

2. The PCSSD shall continue to implement its home school counselor program.

**Compliance Status – Met Standard: The District has continued its Home School Counseling Program, and did so in good faith. Order @ 93.**

**Pulaski County has substantially complied in good faith with this subsection of Plan 2000 (Findings of Fact and Conclusions of Law by Judge Miller, May 19, 2012).**

- Counseling Services Annual Board Report submitted September 5, 2012.
- Home School Consultant/Counselor monthly documentation

**N. Monitoring**

**Plan Provision**

1. The Assistant Superintendent for Desegregation will (1) develop a plan so that he (or she) and his (or her) staff focus their monitoring and compliance efforts on the specific elements of this plan; and (2) provide the Joshua Intervenors within 30 days of the Court's approval of this Plan a list, geared to the sections of this Plan, identifying the staff member or members with particular responsibilities for its implementation and the position held by each.

**Compliance Status – Did not meet Standard: ...Pulaski County failed to take any steps to improve its monitoring plan for more than four years. Id. Indeed, it failed to do so until it applied for unitary status. This is not evidence of a good-faith effort to comply with subsection one. Pulaski County therefore failed to act in good faith and failed to substantially comply with this subsection.” Order @ 105.**

In order to comply with this provision the District did the following:

- Joshua and ODM are provided with a copy of Monitoring Reports, Annual Board Reports, and departmental responses.
- Monitoring Report/Unitary Status/Recommendations Template is provided to ODM and Joshua (October 2011, February 2012, June 2012, and January 2013).
- Standards of Accreditation sections regarding Unitary Status Section 6.01-6.05 - State Quarterly Reports are provided to ADE, ODM, and Joshua (beginning with the 2008-2009 school year to present.)

**Plan Provision**

2. Upon reasonable notice, the Joshua Intervenors will have the opportunity to (1) examine and secure copies of records relating to the PCSSD's compliance with this Plan, including records identified in the

Plan, and (2) to meet with the Assistant Superintendent for Desegregation or a staff member responsible for a particular part of the implementation of the Plan.

**Compliance Status – Met Standard. See Order @ 105.**

- Pulaski County acted in good faith and substantially complied with this subsection (Findings of Fact and Conclusions of Law by Judge Miller, May 19, 2012) and will continue to implement standard for Unitary Status.
- In accordance with state law, submit quarterly monitoring reports to commissioner of Education.
- The District meets with Joshua and ODM throughout the year to provide feedback from participants in the case and listen to concerns.
- The District meets with ADE and ODM representatives monthly for desegregation monitoring and assistance.
- The District will continue to comply with this provision and will provide documentation/records to Joshua upon reasonable request.

**Plan Provision**

3. The PCSSD will submit statistical reports showing the following:

- The enrollment in each school by race;
- The enrollment in gifted and talented programs, honors programs, and advanced placement classes, by school and race;
- The make-up of special education programs: (1) by disability category, including Section 504, by race and by sex; and (2) by school, by race, and by sex; provided that the system may comply with this reporting requirement by providing copies of materials submitted to ADE, as long as they include all information designated in this paragraph;
- For each school and the system, the number of instances of each form of discipline, by race, and by sex; for each school and the system, the number of students receiving each form of discipline, by race, and by sex;
- The racial make-up, by category, of the various categories of administrators, faculty, support staff, and other workers employed in the PCSSD.
- The information in all sub-paragraphs other than sub-paragraph (d) will be submitted not later than November 1 of each year, and the information in sub-paragraph (d) twice a year, not later than 30 days after the end of each semester

**Compliance Status – Met Standard. Judge Miller found that:**

**The evidence demonstrates that Pulaski County has acted in good faith and has substantially complied with this subsection because it made a good-faith effort to track and make available all the required data. Order @ 106.**

**Continuing, Judge Miller held that the evidence thus indicates that Pulaski County is unitary with respect to subsection 3. He went on to add, however:**

**This does not, however, relieve Pulaski County of its duty to continue implementing this provision in good faith until it is declared entirely unitary and excused from court supervision.”  
Order @ 107.**

- The evidence demonstrates that Pulaski County has acted in good faith and has substantially complied with this subsection because it made a good-faith effort to track and make available all the required data (Findings of Fact and Conclusions of Law by Judge Miller, May 19, 2012); will continue to implement standard for Unitary Status.
- The District has and will continue to submit statistical reports in a timely manner.
- Local School Equity Monitoring - Monitoring and Compliance Report (July 29, 2010, August 2011, and August 2012).
- School Profile Report (January 3, 2011, November 30, 2011, and November 15, 2012).
- Talented and Gifted Report (November 2010, December 12, 2011, and October 3, 2012).
- Special Education Report (October 27, 2010, October 6, 2011, and September 26, 2012).
- Annual Discipline Report (2010-2011 First Semester Discipline Report – March 8, 2011; 2010-2011 Annual Discipline Report Summary – July 18, 2011; 2011-2012 First Semester Discipline Report - February 14, 2012; 2011-2012 Annual Discipline Report Summary – July 24, 2012).
- Athletic Report - Extracurricular Activities Report (May 26, 2010, May 26, 2011, and June 4, 2012).
- Fine Arts Minority Report (January 6, 2012, and January 10, 2013).
- Standards of Accreditation sections regarding Unitary Status Section 6.01-6.05 - State Quarterly Reports are provided to ADE, ODM, and Joshua (beginning with the 2008-2009 school year to present); these reports have been submitted in a timely manner.
- ODM and ADE monthly Meeting Summary(s) beginning September 21, 2011, to present.

Respectfully submitted,

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Special School District*

### **CERTIFICATE OF SERVICE**

I hereby certify that on February 1, 2013, 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:

- **Mark Terry Burnette**  
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