

AGREEMENT

1. Joshua and PCSSD are in agreement in principle and in substantial agreement as to content on the unsigned 13-page document attached hereto as Exhibit A.

2. The agreement in principle between Joshua and PCSSD is that they will stipulate PCSSD is unitary in five of the nine remaining subject areas in which PCSSD has not been declared in substantial compliance with Plan 2000, and, therefore, entitled to a declaration of partial unitary status and relief from court supervision as to those five areas. Those areas are Section C, Student Assignment; Section D, Talented and Gifted, Advanced Placement, and Honors Programs; Section L, Staffing; Section K, Special Education; and Section N, Monitoring. Nevertheless, PCSSD agrees it will continue to adhere to the principles of these areas of Plan 2000 and work with Joshua thereon as the district travels the road to full unitary status.

3. Joshua and PCSSD are also in agreement that the four remaining subject areas of Plan 2000, namely, Section H, Facilities; Section F, Discipline; Section I, Scholarships; and Section M, Student Achievement require additional work and attention to be declared unitary.

4. This transitional document is necessary because a nearly completed global settlement between all parties to *LRSD v. PCSSD, et al.*, must be approved by the Legislative Council of the Arkansas General Assembly in order for the State of Arkansas to settle. On November 15, 2013, the Legislative Council approved said global settlement, provided it is joined in either by LRSD or by LRSD and Joshua, before midnight on November 19, 2013. There is insufficient time for Joshua and PCSSD to resolve all of the language niceties of Exhibit A by the November 19 deadline. Therefore, they are executing this transitional document to induce Joshua to enter into the global settlement agreement.



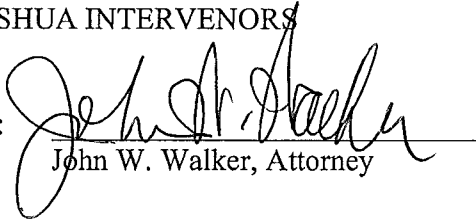
5. In order to add certainty to the undertakings of this document, and evidence the good faith of Joshua and PCSSD, the parties hereto agree that they will jointly request the Court in this litigation to refer this document, Exhibit A, and all questions related thereto, to a settlement conference if Joshua and PCSSD have not resolved their differences over Exhibit A by December 2, 2013.

Accordingly, Joshua and PCSSD do hereby agree to and execute this agreement in principle on this _____ day of November, 2013.

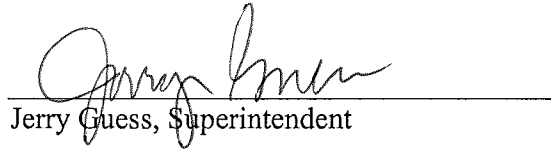
JOSHUA INTERVENORS



PULASKI COUNTY SPECIAL SCHOOL DIST.

By:


John W. Walker, Attorney

By:


Jerry Guess, Superintendent

**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

MRS. LORENE JOSHUA, ET AL.

INTERVENORS

KATHERINE KNIGHT, ET AL.

INTERVENORS

JOSHUA INTERVENORS AND PCSSD STIPULATION OF UNITARY STATUS

As previously reported to the Court, Joshua has increased its monitoring and attendance at meetings involving PCSSD's efforts to comply with the remaining areas of Plan 2000. Based upon this monitoring and participation, Joshua is now prepared to stipulate that PCSSD should be released from Court supervision in all remaining areas of Plan 2000.

PCSSD and Joshua for their joint stipulation for order state:

1. PCSSD petitioned the Court for unitary status in 2010. The petition was denied by Judge Brian Miller (see *Little Rock School District v. Pulaski County Special School District*, 2011 U.S. Dist. LEXIS 54810, 2011 WL 1935332 (May 19, 2011)), and the Eighth Circuit affirmed Judge Miller's order (see *Little Rock School District v. Arkansas*, 664 F.3d 738 (December 28, 2011)). The basis for the District Court's decision and the Eighth Circuit's affirmance was that PCSSD was not in compliance with nine components of Plan 2000. In all other respects, PCSSD was determined to be unitary.
2. In the approximately two years since the District Court and Court of Appeals rulings, PCSSD has made good faith efforts, closely monitored by Joshua, to become compliant with the remaining requirements of Plan 2000.

EXHIBIT A
JN (98)

3. During the course of the current calendar year, Joshua has attended multiple meetings at PCSSD with those responsible for implementing the remaining areas of Plan 2000 for which compliance has not been demonstrated to the satisfaction of the Court and for which unitary status has yet to be granted.
4. Based upon these meetings and monitoring, Joshua has been persuaded that PCSSD is entitled to be granted unitary status in five of the nine remaining areas. The exceptions are Facilities, Discipline, Scholarships, and Student Achievement, for which a slightly qualified release of Court supervision is agreed to by Joshua and PCSSD and proposed to the Court.

(a) Section C – Student Assignment¹

- (i) PCSSD is in compliance with Plan 2000 regarding student assignment. Plan 2000 provides that PCSSD must, by October 15 each school year, submit a report concerning one race classes. For each such class, the reports set forth the name of the school, the class, the grade level, the racial make-up of the class, a description of steps taken to eliminate the one-race class, and, if applicable, the reasons why this proved to be infeasible. A supplemental report is due by March 1 of each year. One-race class reports have been submitted to ODM for the following dates:

September 10, 2008 (elementary)

¹ Plan 2000 is set forth in 14 sections labeled A through N. The capital letter identification of the sections has been retained in this document for ease of reference to Plan 2000. Sections A and B address the scope of Plan 2000 and PCSSD's general obligation, respectively. PCSSD has previously been found unitary as to Sections E (Student Assignment, Interdistrict Schools), G (Multicultural Education) and J (School Resources). This document addresses the components of Plan 2000 for which PCSSD has not yet been found unitary by the Court: Sections C (Student Assignment), D (Advanced Placement, Gifted and Talented, and Honors Programs), F (Discipline), H (School Facilities), I (Scholarships), K (Special Education), L (Staff), M (Student Achievement), and N (Monitoring).



October 1, 2008 (secondary)
January 28, 2009 (elementary)
January 28, 2009 (secondary)
September 28, 2009 (elementary)
September 29, 2009 (secondary)
January 26, 2010 (elementary)
January 26, 2010 (secondary)
October 1, 2010 (elementary)
October 1, 2010 (secondary)
January 24, 2011 (elementary)
January 24, 2011 (secondary)
September 30, 2011 (elementary)
October 10, 2011 (secondary)
January 23, 2012 (elementary)
February 1, 2012 (secondary)
September 21, 2012 (elementary)
October 2, 2012 (secondary)
January 23, 2013 (elementary)
January 29, 2013 (secondary)

- (ii) PCSSD has also implemented a Program Evaluation Model to correctly document one-race classrooms, to the extent they exist. As part of the Program Evaluation Model, the one-race class reports are compared with the master schedules in the secondary schools to promote accuracy, and on-site visits are conducted by the elementary and secondary Central Office Teams to confirm the information. The Central Office Teams are comprised of the following PCSSD personnel:

Elementary Central Office Team

Dr. Janice Warren, interim Assistant Superintendent for Equity and Pupil Services

Terri L. Rogers, Coordinator of Equity Initiatives

Sam Altschul, Director of Federal Programs

Renee Dawson, Program Administrator

Debbie Young, Special Education Coordinator

Josh Mills, Technology Specialist

Becky Barr, Special Education Coordinator

Secondary Central Office Team

Dr. John Tackett, Director of Secondary Education

Sherman Whitfield, Director of Pupil Services



Pam Black, Director of Career Education
Lance Lavar, Program Administrator
Lajuana Green, Director of Counseling and Testing
Joanne Koehler, Coordinator of Fine Arts
Nickey Nichols, RTI Coordinator
Laura Shirley, Director of Talented and Gifted
Dr. Yolaundra Williams, Program Administrator
Kathy Goff, Title I Coordinator
Kiffany Davis, Program Administrator
Brenda Hiegel, Special Education Coordinator
John McCraney, Coordinator of Multicultural/Pathwise and
Assistant Testing Coordinator
Jennifer Beasley, Technology Specialist
Carolyn Norful, Special Education Coordinator
Jenny Dunn, Special Education Coordinator
Evelyn Williams, Special Education Coordinator

(b) Section D – Talented and Gifted, Advanced Placement, Honors Programs

(i) PCSSD's Talented and Gifted, Advanced Placement, and Honors Programs are in compliance with Plan 2000. The Advanced Placement/Pre-AP Program encompasses the Honors course(s) offered by PCSSD. The eight strategies set forth in the 1998-1999 Advanced Placement Guidelines have been implemented as follows:

- (1) Recommendations for pre-AP placement are sought from 5th-12th grade teachers, ALPHA/TAG facilitators, parents, and students.
- (2) The parents of incoming 5th-12th grade students are informed of the pre-AP/AP program via the school's website and school parent nights.
- (3) Recommendations are requested within each department. Principals, department heads, AP coordinators, and teachers work together so that the recommendation process is followed.



- (4) Bi-racial committees have been formed to determine student placement.
 - (5) Parent permission letters for participation in the pre-AP/AP programs are kept on file.
 - (6) Conferences are held with the student, parents, principal, teachers, and counselors involved any time a student expresses a desire to withdraw from the pre-AP or AP class. Efforts are made by all school personnel involved to encourage the student to remain enrolled in the pre-AP/AP program.
 - (7) If, following the aforementioned conference, a student chooses to drop out of the pre-AP English sequence, that student is placed in the appropriate literature course.
 - (8) The Pre-AP/AP Plan 2000 Compliance Handbook addresses improving retention and success of black students in the AP program.
- (ii) Students are identified for participation in the Talented and Gifted Program as follows: (1) teachers at all grade levels make recommendations; (2) the recommended students are subjected to verbal and non-verbal IQ tests; (3) students who score well on the IQ tests are identified as Talented and Gifted. If the variance between overall black enrollment at the school and black students participating in Talented and Gifted exceeds 8%, the verbal and non-verbal IQ tests are given to all of the black students scoring proficient or higher on the Benchmark exam. The black students who score well on the IQ tests are then identified as



Talented and Gifted. This secondary process of testing all black students scoring proficient or higher has resulted in an increase in the number and proportion of black students in the Talented and Gifted Program and compliance with the 8% variance.

(c) Section K – Special Education

- (i) PCSSD is in compliance with the Special Education component of Plan 2000. Schools with atypically high racial disparities in special education assignment have been identified. For the previous two school years, the Director of Special Education has maintained files on each school with high racial disparities. The files include the school's screening plan, a memo drafted by the Director of Special Education, and a plan for quarterly monitoring to address and reduce the school's racial disparities, generally and as to black male students. The monitoring plans are in place, and each school is evaluated at mid-year and end-of-year intervals. Corrective actions are taken as necessary.
- (ii) The Arkansas Department of Education has also monitored PCSSD's special education programs. PCSSD utilizes the self-assessment form as recommended by ADE.

(d) Section L – Staffing

- (i) PCSSD is in compliance with Plan 2000 regarding staffing. The four mandates addressed in Plan 2000 are set forth below.
- (ii) Subsection (1). PCSSD recruits applicants for administrative positions in a manner designed to result in a racially diverse pool of applicants. Open administrative positions are advertised in the Arkansas Democrat Gazette



(external) and are posted in the teacher's lounge at each school (internal). PCSSD also participates in recruiting fairs hosted by area colleges, the Arkansas Department of Education, and Citadel Radio. So that the pool of applicants is racially diverse, a bi-racial committee is formed. The hiring manager for the open position is part of the committee and will suggest members for the committee to the Assistant Superintendent for Equity and Pupil Services (formerly the Assistant Superintendent for Desegregation). Either the human resources department or the hiring manager screen the applicants and determine whether the pool contains both qualified applicants and racially diverse candidates. If these criteria are not met, the position is re-posted and the application time is lengthened. If the applicants are qualified and racially diverse, the interview list is submitted to the Assistant Superintendent for Equity and Pupil Services, who will either approve the list or re-post the position. Once both the hiring manager and the Assistant Superintendent for Equity and Pupil Services have agreed that the applicants are qualified and racially diverse, the bi-racial committee conducts interviews. The committee submits a letter to the human resources department summarizing their activities and recommending their chosen candidate. The Chief Executive Officer for Human Resources (formerly Assistant Superintendent for Personnel) may suggest to the Superintendent that the committee's recommendation be denied. In the alternative, the CEO for Human Resources or the Assistant Director of Human Resources will approve the recommendation.



- (iii) The Aspiring Black Principals Workshop has been established as a mentoring program with the goal of grooming promising black teachers for administrator positions.
- (iv) Subsection (2). This section addresses PCSSD's recruitment of black teachers. Substantially the same process is followed for recruiting teachers as that set forth for administrators. The position is advertised in the *Arkansas Democrat Gazette* and posted in the teachers' lounges. A bi-racial committee is formed to interview the applicants. If the school is a racially identifiable school, the Assistant Director of Human Resources is included on the bi-racial committee as an additional precaution so that Plan 2000 is followed. The hiring manager or committee screens the applications so that the pool is racially diverse and includes only qualified applicants. If the pool is not racially diverse, the hiring manager contacts the Assistant Director of Human Resources, who may decide to leave the posting open for a longer period of time, re-post the position, or make the position temporary for one year, at which point the job would be re-posted in another attempt to solicit minority applicants. Once the applicant pool is determined to be racially diverse, the hiring committee creates an interview list, the committee interviews the applicants, and the committee submits its findings and recommendation to Human Resources.
- (v) PCSSD monitors its recruitment and hiring of black teachers in the Annual Deployment and Recruitment Report and the Minority Teacher and Administrator Recruitment Report.



- (vi) Subsection (3). This section requires implementation of programs, policies, and/or procedures, including incentives, to encourage an increase in the number of black (1) early childhood teachers, (2) primary grade teachers, and (3) secondary core teachers. PCSSD is further required to assign those teachers to the schools where the greatest disparity exists.
- (vii) PCSSD's tuition reimbursement program and hiring incentives have been put on hold until the district is no longer in fiscal distress. However, the recruitment reports show that PCSSD is monitoring the numbers of black teachers in the three enumerated areas, assigning them to the schools where the greatest disparity exists, and continuing to alter their recruitment strategies as necessary to continue growing the number of black teachers in these areas. Additionally, an addendum to the Deployment and Recruitment Report was created in 2011-12 to specifically address secondary core teachers.
- (viii) Subsection (4). PCSSD assigns teachers and other professional staff in a manner that avoids the racial identification of schools. PCSSD defines a "racially identifiable school" as follows: "Racially identifiable schools are established on an average on both the elementary and secondary levels for a mean of black teachers and wherein the range regarding that 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. For example, if during year one, 25 percent of the district's secondary teachers were black, then in year two,



the faculty at each secondary building could be no less than 18.75 percent black and no more than 31.25 percent black.

- (ix) In order to improve racial balance between the schools, the Assistant Director of Human Resources has prepared memos to each school identified as a racially identifiable school. The memos are prepared by reviewing information submitted by the school and comparing it to information received from the IT department. The definition for racially identifiable schools is applied, and the schools that are determined to be racially identifiable are notified. The Assistant Director of Human Resources sits on the bi-racial interview committees for all racially identifiable schools.

(e) **Section N – Monitoring**

- (i) PCSSD is in compliance with Plan 2000's monitoring component. PCSSD submitted a revised monitoring plan to the Office of Desegregation Monitoring, and the revised plan has been approved by ODM. PCSSD's Plan 2000 Unitary Status and Recommendations auditing template has also been approved by ODM. Copies of the monitoring plan and auditing template have been provided to Joshua.
- (ii) PCSSD continues to provide Joshua with copies of records relating to PCSSD's compliance with Plan 2000, and the Assistant Superintendent for Equity and Pupil Services (formerly the Assistant Superintendent for Desegregation) and other personnel are available to meet with Joshua upon request. PCSSD has submitted the required statistical reports.



(f) Section H – Facilities

- (i) Joshua agrees with PCSSD that the Facilities issue, because of the substantial sums of money required for compliance, must be approached differently from the other remaining areas.
- (ii) Joshua believes that it should turn its attention, together with PCSSD, towards efforts to pass a millage and otherwise secure funds, perhaps in partnership with the State of Arkansas, to forge a long-term plan so that all public school facilities in PCSSD will be constitutionally adequate and compliant. However, Joshua agrees with PCSSD that active continuation of the litigation in the area of Facilities does nothing to advance that end result.
- (iii) As regards Facilities, Joshua agrees with PCSSD that this portion of the case should be administratively closed subject to a motion by Joshua to reopen litigation in the area of Facilities should PCSSD not demonstrate constitutional compliance respecting Facilities by December 1, 2017.

(g) Section F – Discipline, Section I – Scholarships, and Section M – Student Achievement

- (i) While Joshua continues to have concerns about PCSSD’s unitary status in the areas of Discipline, Scholarships, and Student Achievement, good faith abounds between the parties.
- (ii) PCSSD and Joshua agree that specific steps and programs need to be identified that, if followed, will lead to unitary status in the areas of Discipline, Scholarships, and Student Achievement. In order to identify and commit to these steps and programs, PCSSD and Joshua agree to



participate in a settlement conference. PCSSD and Joshua propose that the settlement conference be conducted before a United States magistrate judge as designated by the Court.

5. Joshua is prepared to agree and does hereby stipulate that the Court should declare PCSSD unitary in all remaining areas, except those regarding Facilities, Discipline, Scholarships, and Student Achievement, and should withdraw federal Court supervision in all remaining areas, with Facilities, Discipline, Scholarships, and Student Achievement being dealt with as specified above. Strict compliance with the specific terms and reporting requirements of Plan 2000 should no longer be required. However, PCSSD is not relieved of its obligation to refrain from racial discrimination in general, and specifically regarding those areas set forth in Plan 2000. Nothing about this stipulation or any subsequent order entered in respect hereto should be construed by any party or non-party as foreclosing any person believed aggrieved by any action of PCSSD from pursuing a judicial remedy for any future discrimination perceived and alleged.

WHEREFORE, Joshua and PCSSD stipulate and agree to entry of an order dismissing all remaining issues under Plan 2000, withdrawing judicial monitoring and supervision of all such remaining areas including Facilities, Discipline, Scholarships, and Student Achievement, which shall be subject to a settlement conference before a United States magistrate judge, except that if Joshua determines compliance has not been achieved respecting Facilities by December 1, 2017, that Joshua shall be privileged to file a motion to renew this litigation as regards Facilities on or before that date.



Respectfully submitted,

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