

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
_____ DIVISION, CIVIL DIVISION

DIANE CURRY, C.E. MCADOO
JIM ROSS, DORIS L. PENDLETON

PLAINTIFFS

VS. 60CV-15-

TONY WOOD, in his official capacity
as COMMISSIONER of the ARKANSAS DEPARTMENT
OF EDUCATION; ARKANSAS DEPARTMENT OF EDUCATION;
SAMUEL LEDBETTER, in his official capacity
as CHAIRMAN, ARKANSAS STATE BOARD OF EDUCATION;
TOYCE NEWTON, in her official capacity as
VICE-CHAIRMAN, ARKANSAS STATE BOARD OF EDUCATION;
JOE BLACK, in his official capacity as a MEMBER,
ARKANSAS STATE BOARD OF EDUCATION; ALICE WILLIAMS
MAHONY, in her official capacity as a MEMBER,
ARKANSAS STATE BOARD OF EDUCATION; MIREYA REITH,
in her official capacity as a MEMBER, ARKANSAS
STATE BOARD OF EDUCATION; VICKI SAVIERS,
in her official capacity as a MEMBER,
ARKANSAS STATE BOARD OF EDUCATION; JAY BARTH,
in his official capacity as a MEMBER,
ARKANSAS STATE BOARD OF EDUCATION; DIANE
ZOOK, in her official capacity as a MEMBER
ARKANSAS STATE BOARD OF EDUCATION;
KIM DAVIS, in his official capacity as a
MEMBER, ARKANSAS STATE BOARD OF EDUCATION

DEFENDANTS

**COMPLAINT FOR DECLARATORY JUDGMENT, WRIT OF MANDAMUS, WRIT OF
PROHIBITION, AND INJUNCTIVE RELIEF**

Come now the Plaintiffs, by and through their attorneys, Marion
A. Humphrey, Rickey H. Hicks, and Willard Proctor, Jr., and for their
Complaint, state:

JURISDICTION AND VENUE

1. This cause of action is filed pursuant to Ark. Code Ann.
§ 16-111-104, part of the Declaratory Judgment Act, jurisdiction and
venue is therefore proper in this Court. This cause of action also
seeks the issuance of a writ of mandamus and a writ of prohibition.

Under Ark. Code Ann. §16-115-102, jurisdiction lies in circuit court for petitions for a writ of mandamus and prohibition directed at "inferior courts, tribunals, and officers in their respective jurisdictions." This cause also seeks to reverse and stay arbitrary, capricious, bad faith, wanton and ultra vires actions taken by the Arkansas State Board of Education and therefore venue and jurisdiction is proper in this Court. This cause is also filed seeking injunctive relief pursuant to Arkansas Rule of Civil Procedure, Rule 65 based on activity that has occurred and is continuing to occur in Little Rock, Pulaski County, Arkansas and therefore jurisdiction and venue is proper in this Court.

PARTIES

2. Plaintiff, Diane Curry, is a person of the full age of majority and a resident of Little Rock, Pulaski County, Arkansas. Plaintiff, C.E. McAdoo, is a person of the full age of majority and a resident of Little Rock, Pulaski County, Arkansas. Plaintiff, Jim Ross, is a person of the full age of majority and a resident of Little Rock, Pulaski County, Arkansas. Plaintiff, Doris L. Pendelton, is a person of the full age of majority and a resident of Little Rock, Pulaski County, Arkansas.

3. Mr. Tony Wood is the Commission of the Arkansas Department of Education (herein after also referred to as "ADE"). The Arkansas Department of Education is a department of the State of Arkansas.

4. Mr. Samuel Ledbetter is the Chairman of the Arkansas State

Board of Education and is a person of the full age of majority and is believed to be a resident of Little Rock, Pulaski County, Arkansas.

5. Ms. Toyce Newton is the Vice-Chairman of the Arkansas State Board of Education and is a person of the full age of majority and is believed to be a resident of Crossett, Ashley County Arkansas.

6. Mr. Joe Black is a Member of the Arkansas State Board of Education and is a person of the full age of majority and is believed to be a resident of Newport, Jackson County Arkansas.

7. Ms. Alice Williams Mahony is a Member of the Arkansas State Board of Education and is a person of the full age of majority and is believed to be a resident of El Dorado, Union County Arkansas.

8. Ms. Mireya Reith is a Member of the Arkansas State Board of Education and is a person of the full age of majority and is believed to be a resident of Fayetteville, Washington County Arkansas.

9. Ms. Vicki Saviers is a Member of the Arkansas State Board of Education and is a person of the full age of majority and is believed to be a resident of Little Rock, Pulaski County Arkansas.

10. Mr. Jay Barth is a Member of the Arkansas State Board of Education and is a person of the full age of majority and is believed to be a resident of Little Rock, Pulaski County Arkansas.

11. Ms. Diane Zook is a Member of the Arkansas State Board of Education and is a person of the full age of majority and is believed to be a resident of Melbourne, Izard County Arkansas.

12. Mr. Kim Davis is a Member of the Arkansas State Board of Education and is a person of the full age of majority and is believed to be a resident of Fayetteville, Washington County Arkansas.

FACTS

13. Article 14, Section 4 of the Arkansas Constitution provides that "the supervision of public schools, and the execution of the laws regulating the same, shall be vested in and confided to, such officers as may be provided for by the General Assembly."

14. Article 14, Section 3 of the Arkansas Constitution assigns certain constitutional responsibilities to School Board of Directors.

15. Article 14, Section 3 (a) of the Arkansas Constitution provides that "the General Assembly shall provide for the support of common schools by general law. In order to provide quality education, it is the goal of this state to provide a fair system for the distribution of funds. It is recognized that, in providing such a system, some funding variations may be necessary. The primary reason for allowing such variations is to allow school districts, to the extent permissible, to raise additional funds to enhance the educational system within the school district. It is further recognized that funding variations or restrictions thereon may be necessary in order to comply with, or due to, other provisions of this Constitution, the United States Constitution, state or federal laws, or court orders."

16. Article 14, Section 3 (c) (1) of the Arkansas Constitution

provides that "in addition to the uniform rate of tax provided in subsection (b), school districts are authorized to levy, by a vote of the qualified electors respectively thereof, an annual ad valorem property tax on the assessed value of taxable real, personal, and utility property for the maintenance and operation of schools and the retirement of indebtedness. The Board of Directors of each school district shall prepare, approve and make public not less than sixty (60) days in advance of the annual school election a proposed budget of expenditures deemed necessary to provide for the foregoing purposes, together with a rate of tax levy sufficient to provide the funds therefor, including the rate under any continuing levy for the retirement of indebtedness. The Board of Directors shall submit the tax at the annual school election or at such other time as may be provided by law. If a majority of the qualified voters in the school district voting in the school election approve the rate of tax proposed by the Board of Directors, then the tax at the rate approved shall be collected as provided by law. In the event a majority of the qualified electors voting in the school election disapprove the proposed rate of tax, then the tax shall be collected at the rate approved in the last preceding school election. However, if the rate last approved has been modified pursuant to subsection (b) or (c) (2) of this section, then the tax shall be collected at the modified rate until another rate is approved."

17. The Arkansas General Assembly vested and confided in the

Arkansas State Board of Education (hereinafter referred to as the "SBE") the general supervision of the public schools of the state.
Ark. Code Ann. §6-11-105

18. Apart from the responsibilities imposed by the Arkansas Constitution, the Arkansas General Assembly vested and confided in the School District Board of Directors the powers to provide a general, suitable, and efficient system of free public education.
Ark. Code Ann. §6-13-620.

19. To manage the school district, the Arkansas General Assembly created the offices of school district board of director.
See Ark. Code Ann. §6-13-634.

20. School Districts and School Board of Directors we constitutional entities recognized in Article 14, Section 3 of the Arkansas Constitution.

21. The school boards operate the schools in their respective districts, purchase the required property, hold title to the property for the district, and have complete charge of maintenance. *Crenshaw v. Eudora School Dist.*, 208 S.W.3d 206, 362 Ark. 288 (Ark., 2005)

22. The Arkansas General Assembly has also required that each school district have a school superintendent. Ark. Code Ann. §6-13-109.

23. The Legislature has absolute control over all statutory offices, and may abolish them at pleasure; and in doing so no vested right is being invaded. *Robinson v. White*, 26 Ark. 139, 141 (1870)

24. The Board of Directors of the State's School Districts are assigned constitutional responsibilities and therefore, it may not be dissolved as such dissolution would violate Article 14, Section 3 of the Arkansas Constitution.

25. Given the constitutional responsibilities assigned to School Districts and Board of Directors under Article 14, Section 3, it would be unconstitutional for a school district to operate without a Board of Directors.

26. Article 5, section 20 of the Arkansas Constitution provides that "[t]he State of Arkansas shall never be made defendant in any of her courts."

27. A state agency may be enjoined if it can be shown that the agency's action is ultra vires or outside of the authority of the agency. *Fitzgiven, et al v. Dorey, et al, 2013 Ark 346, 429 S.W. 3d 234, citing Arkansas Dep't of Env'tl. Quality v. Oil Producers of Arkansas, 2009 Ark. 297, 318 S.W.3d 570.*

28. A state agency may also be enjoined from acting arbitrarily, capriciously, in bad faith or in a wantonly injurious manner. *Fitzgiven, et al v. Dorey, et al, 2013 Ark 346, 429 S.W. 3d 234, citing Arkansas Dep't of Env'tl. Quality v. Oil Producers of Arkansas, 2009 Ark. 297, 318 S.W.3d 570.*

29. The Little Rock School District School Board (hereinafter referred to as "LRSD") consists of seven members, all of whom are elected to three-year terms. All board members represent a specific

geographical area or zone. Board member terms are staggered so that at least two members, but no more than three, are to be elected each year on the third Tuesday in September.

30. School board candidates had to file with the Pulaski County Elections Commission during the filing period from July 1, 2014, to July 8, 2014. Voters had to register by August 17, 2014 to vote in the election on September 16, 2014. Voters could apply for absentee voting starting on July 18, 2014. Requests submitted online or by mail had to be received by September 9, 2014, while in-person applications could be made until September 15, 2014. Early voting ran from September 9, 2014, to September 15, 2014.

31. Two of the seats on the seven member LRSD School Board were up for general election on September 16, 2014. Incumbents for Zones 1 and 5 seats were up for election.

32. Zone 1 incumbent Norma Jean Johnson was defeated by challenger Joy C. Springer. Jim Ross unseated two-term incumbent Jody Carreiro as the Zone 5 representative.

33. Much of the discourse surrounding the election focused on the upcoming loss of \$37 million in special state funding. The funding came from a settlement agreement reached following a desegregation lawsuit in the county which began in 1982.

34. In 1982, LRSD sued Pulaski County Special District, North Little Rock School District and the state to create a countywide school district. The school district, which was primarily African-

American, saw the case as a way to end racial segregation between their district and the primarily white districts. The case was resolved by redrawing the Little Rock School District boundary lines to match its city limits, which resulted in a loss of almost 8,000 students and 14 schools from the Pulaski County Special School District. In addition to the boundary changes, a settlement agreement was reached that required the state to pay approximately \$129.75 million over 10 years to the three districts.

35. Despite these events, the controversy was not quickly resolved. A desegregation plan was approved in 1998 which was designed to release the Little Rock district from federal court monitoring in 2001. However, it was not released until 2002, and even then one provision was kept under court monitoring: the effectiveness in raising the achievement levels of African American students. This last piece of monitoring was removed in 2007. While this decision was appealed by Joshua Interveners, it was ultimately upheld.

36. In 2011, a court order relived the state of most of its monetary obligation from the earlier settlement agreement. State aid for majority-to-minority inter-district student transfers was still required. The LRSD appealed this decision.

37. A decision on January 13, 2014, approved the final phasing out of state payments to the three school districts. The payments are set to end after the 2017-2018 school year.

38. While debate about whether or not the payments achieved

their desegregation goals continues, the loss of these funds will affect more than just desegregation efforts. The majority of the funds were dedicated to the desegregation projects, but they have also been used for teacher retirement and health insurance costs. Both Johnson and Carreiro discussed the impacts this loss of funding will have on the district at a forum held by the Coalition of Greater Little Rock Neighborhoods. Both acknowledged that the district will likely have job losses and that other budgetary changes will have to be made in light of this change.

39. Doris L. Pendleton is a registered voter in Zone 1 of the Little Rock School District.

40. On September 16, 2014, Ms. Pendleton joined the other 485 registered voters who voted for Joy Springer. (See, Exhibit 1: Pulaski County School Election Results).

41. On September 16, 2014, 379 registered voters in Zone 5 voted for Jim Ross to replace the incumbent Jody Carreiro. (See, Exhibit 1: Pulaski County School Election Results).

42. The Arkansas General Assembly has given the State Board of Education the authority over a public school or school district in academic distress. Ark. Code Ann. §6-15-430

43. The LRSD has forty-eight (48) schools.

44. In 2014, six (6) of the LRSD's schools were identified as being in academic distress after fewer than half of the students attending them scored at proficient levels on achievement.

45. Three of the six (6) schools are high schools, two (2) are middle schools and one (1) is elementary school. Baseline Elementary, Cloverdale Middle, Henderson Middle, J.A. Fair High, and McClellan High.

46. The great majority of the LRSD schools are not in academic distress.

47. Central High School consistently leads the state in national merit semi-finalists.

48. Forest Park, Roberts, Williams, Pulaski Heights Middle and Central High were recognized with *Outstanding Educational Performance Awards* by the Office for Education Policy at the University of Arkansas.

49. Pre-AP and AP enrollment has been steadily increasing. Students took more ACT tests in 2014 than in 2013 and their scores were higher on every subject tested.

50. Wilson Elementary School was one of nine schools in the state to receive the "Exemplary School" designation for the 2013-14 school year, an achievement made more impressive considering that Wilson was a "priority" school the year before.

51. The Little Rock School District is not a school district in academic distress.

52. The State Board of Education Academic Distress Office did not find the entire school district in academic distress, just the six individual schools. (See Exhibit 2)

53. LRSD has been willing to make big changes in schools to improve their performance and to expand the range of options available to students in our community.

54. Chicot, for example, was converted to a K-2 school. Fair Park became an early childhood center. More recently, Forest Heights was converted into a STEM school and Geyer Springs became a gifted and talented academy.

55. LRSD had also begun a planning process to redesign and reconfigure Hall for the 2016-17 school year.

56. LRSD's Board of Directors clearly stated that Baseline, Cloverdale, Henderson, Hall, Fair and McClellan were its top priority and that the Board would do "whatever it takes" to improve teaching and learning at those schools. That commitment was evident when, on January 20, 2014, Dr. Suggs suggested that it might be necessary to "reconstitute" all six schools and Board members expressed their strong support for doing that if that's what it will take to fix those schools.

57. LRSD has worked together with the ADE for years to improve academic performance at the six schools which have now been classified as being in academic distress.

58. ADE school improvement specialists have been working in each of the schools since before they were declared to be in academic distress.

59. For years, ADE has approved the improvement plans (ACSIP)

for the six schools.

60. Five of the six schools were previously "state directed" schools, which gave ADE significant authority over their improvement efforts.

61. ADE had the authority, for example, to replace school staff, reallocate resources, provide professional development, consolidate or close the schools or convert them to charters, or appoint a School Improvement Director to oversee all aspects of the learning environment.

62. Some significant progress has been made in these schools. While much more remains to be done, it would be wrong to say there has been no improvement.

63. The percentage of proficient students has increased significantly in every school and in every subject area except math at Baseline which declined slightly. Examples include increases at Baseline (from 24% to 42% proficiency in Math); Cloverdale (25% to 42% in Literacy and 6% to 35% in Math); Henderson (15% to 39% in Math); J.A. Fair (18% to 47% in Algebra 1); and McClellan (19% to 40% in Literacy, 12% to 45% in Algebra], and 16% to 42% in Geometry).

64. The ADE rules governing academic distress require that ADE send a team of educators to evaluate schools in academic distress and make written recommendations to the school district.

65. On September 29, 2014, ADE sent Dr. Suggs a letter with written recommendations for each of LRSD's six academically

distressed schools. Soon thereafter, LRSD submitted to ADE and the SBE Subcommittee for Academically Distressed Schools LRSD's "Academic Improvement Plan for Schools in Academic Distress".

66. The executive summary to LRSD's plan notes that "the district appreciates the invaluable insight and recommendations made by the ADE Evaluation Teams" and states that LRSD will act on those recommendations. Both of these documents were discussed at the October 14, 2014 SBE subcommittee meeting with LRSD.

67. ADE and LRSD both submitted progress reports to the SBE subcommittee in advance of the January 7, 2015 subcommittee meeting.

68. The ADE report (dated January 2, 2015) makes the following observation about the October 2014 subcommittee meeting: "Further, it was clear to the casual observer that both substantial progress in the implementation of the plan presented by LRSD administrators (inclusive of ADE recommendations), as well as substantial improvement in 'teamsmanship' within and between district administrators and the local school board was expected."

69. The ADE report goes on to summarize ADE's September 2014 findings and recommendations and concludes with a "Progress Report". The LRSD "Progress Report" was submitted on January 7, 2014. It provides a one-page summary of LRSD's accomplishments and planned "next steps", followed by a more detailed description of the progress to date.

70. While there are some areas of disagreement between the two

reports, Dr. Wilde of the ADE school improvement team reported to the SBE on January 7, 2015 that LRSD was implementing the right kinds of research-based programs at the six academically distressed schools and was doing so with an appropriate sense of urgency, but was probably trying to make too many changes at once.

71. ADE and LRSD school improvement specialists met at LRSD's request on January 14, 2015, to discuss the differences between the two reports, the progress to date and the priorities for the remainder of the school year. As a result of this meeting, LRSD is submitted to ADE an update on the efforts of the six schools to narrow their focus to two or three significant innovations in accordance with ADE's recommendation.

72. LRSD's Board expected that the plans developed at each of the six schools to increase student achievement (inclusive of ADE's recommendations) would be faithfully followed and stood ready to take whatever further steps may be necessary to improve the performance of those schools.

ARBITRARINESS, CAPRICIOUSNESS, BAD FAITH AND WANTONNESS

73. Plaintiffs incorporate and re-allege each allegation in paragraphs 1 - 72 of this complaint as set forth word for word.

74. On January 28, 2015, in a 5 - 4 decision at a specially called meeting, the Arkansas State Board of Education voted to takeover the Little Rock School District.

75. The Arkansas State Board of Education voted to immediately

remove the seven-member Little Rock School District Board.

76. The Superintendent, Dexter Suggs, was allowed to remain on an interim basis and report to the State Department of Education Commissioner.

77. The decision of the Arkansas State Board of Education was arbitrary, capricious, in bad faith and will cause wanton injury if it is allowed to stand.

78. The decision of the Arkansas State Board of Education is succinctly stated in a widely reported statement from State Senator Joyce Elliott, "If I break my arm, you don't put my whole body in a cast. That's kind of where we are with six schools; it's not the entire district."

79. The Little Rock School Board of Directors made it clear that it would take all steps necessary to fix the problem in the schools.

80. The Little Rock School Board of Directors had taken steps to fix problems in the school.

81. The standards established in Arkansas law do not allow SBE to take control of a school district which is not in academic distress when that action is not necessary to remedy schools in academic distress.

82. The Arkansas State Board of Education had not taken over other districts in the state where the rate of academically-distressed schools is greater than in Little Rock.

83. The SBE had only taken control of one district because of academic distress (Lee County) prior to its decision to takeover the LRSD. In the case of Lee County, the entire district was in academic distress. The problems in Lee County included having no curriculum beyond textbooks and having 42 of 67 high school seniors who were not on track to graduate.

84. The Strong-Huttig school district has also been classified as being in district-wide academic distress, but the state has not moved to take control of that district.

85. The Dollarway School District was placed in state control for failing to meet state Standards for Accreditation, but was returned to local control even though Dollarway High School was in academic distress.

86. The SBE has had control of the Pulaski County Special School District for four years, but three of the 26 schools in Arkansas currently in academic distress are in the Pulaski County Special School District.

87. The ADE staff has said that LRSD is implementing the right kinds of innovations in the six schools with a sense of urgency, and no one has said that the LRSD Board has done anything to impede that effort.

88. There are no established criteria for taking over a district in which the great majority of the schools are not in academic distress, and it has never been done before.

89. It does not appear that ADE has developed any plan which would significantly change the improvement efforts currently underway in the six schools.

90. The question of "teamsmanship" is itself highly subjective. One thing school boards should do is support their superintendents whenever possible.

91. Another thing school boards must do is to hold their superintendents accountable for improving student performance in the schools. The first may look like collegiality and the second may look like a lack of "teamsmanship", but they are both necessary

92. Five of the six troubled schools are already "state-directed" meaning the state already had the authority to take steps including replacing the entire staff or closing them.

93. As of February 12, 2015, Arkansas Education Department leaders reported that "there is no plan yet for improving the Little Rock School District's academically troubled schools." Howell, Cynthia, 2015, February 13, *No course set yet for LR district, state says, Arkansas Democrat Gazette*, page 1.

94. The Arkansas State Board of Education did not give the newly elected Board Members enough time to correct problems.

95. The Arkansas State Board of Education's actions are arbitrary, capricious, in bad faith and wanton.

ULTRA VIRES

96. A state agency may be enjoined if it can be shown that the

agency's action is ultra vires or outside of the authority of the agency. *Fitzgiven, et al v. Dorey, et al*, 2013 Ark 346, 429 S.W. 3d 234, citing *Arkansas Dep't of Env'tl. Quality v. Oil Producers of Arkansas*, 2009 Ark. 297, 318 S.W.3d 570.

97. ASB's actions are ultra vires and outside of its authority in that they are in direct violation of the Arkansas Constitution.

98. To the extent Ark. Code Ann. § 6-15-430(b) purportedly allows SBE to take over a school district which is not in academic distress and remove its board of directors simply because a school or schools within the district are in academic distress, it violates the Arkansas Constitution.

99. Because Arkansas voters approved Amendment 74 in 1997, Article 14 section 3 of the Arkansas Constitution now assigns certain constitutional responsibilities to school boards.

100. For the SBE to require a school district to operate without a school board (especially for reasons unrelated to the improvement of academically distressed schools) would be unconstitutional.

101. Further, SBE's action is ultra vires because it is in excess of the authority given to it by Ark. Code Ann. § 6-15-401 et. seq.

102. Arkansas law (ACA § 6-15-401 et. seq.) provides for the identification by ADE and the classification by SBE of a public school or a public school district in "academic distress".

103. Arkansas law (ACA § 6-15-401 et. seq.) provides for the

identification by ADE and the classification by SBE of a public school or a public school district in "academic distress".

104. Ark. Code Ann. §6-15-430 describes "State Board of Education authority over a school or school district in academic distress." Subsection (a) sets out a range of remedies for **a school district** in academic distress. (emphasis added)

105. This subsection does not apply to LRSD because the Little Rock School District is not in academic distress. (See, Exhibit 2).

106. Subsection (b) sets out a range of remedies for a public school in academic distress. This section authorizes SBE to take action necessary to improve the performance of one or more schools within a district and must be read in that context.

107. Subsection (b) sets out a number of school specific remedies such as reorganizing or closing the school, removing its principal and reassigning its staff, and then says in (b)(9) that SBE may also "[t]ake one (1) or more of the actions under subsection (a) of this section concerning the public school district where the school is located".

108. The rules of statutory construction dictate that ACA § 6-15-430(b)(9) incorporates the subsection (a) remedies only to the extent necessary to remedy the academic distress of the school(s) so classified.

109. This is true for several reasons. First, subsection (a) and subsection (b) come from separate laws passed at different times by

the Arkansas General Assembly. Subsection (a) was part of the original Omnibus Quality Education Act passed in 2003. Subsection (b) was added 10 years later by Act 600 of 2013. Since SBE already had the authority to remedy school districts in academic distress at the time subsection (b) was passed, the logical purpose of subsection (b) was to provide a remedy when only schools and not school districts were in academic distress.

110. More importantly, subsection (b) itself makes its purpose clear and provides a standard for SBE action. Ark. Code Ann. §6-15-430(b)(11), for example, authorizes SBE to "[t]ake any other appropriate action allowed by law that the state board determines is **needed to assist and address the public school classified as being in academic distress.**" Ark Code Ann §6-15-430(b)(11) (emphasis added). In the same vein, Ark Code Ann § 6-15-430(b)(10) authorizes SBE to return a district to elected representatives when "**the public school has corrected all issues** that led to the classification of academic distress". ACA § 6-15-430(b)(10) (emphasis added).

111. The standard established in subsection (b) is that the SBE may take only such actions as are "needed to assist and address the public school" and assure that "the public school has corrected all issues" that led to academic distress.

112. The SBE is authorized to completely restructure the six LRSD schools in academic distress and to assume full control of them. See, e.g. ACA § 6-15-430(b)(1)-(7).

113. Nothing more would be "needed" to address the academic distress issues at Baseline, Cloverdale, Henderson, Hall, Fair and McClellan.

114. However, the SBE acted outside of its authority in assuming full control of the entire LRSD.

MANDAMUS AND PROHIBITION

115. Plaintiffs incorporate and re-allege each allegation in paragraphs 1 - 113 of this complaint as set forth word for word.

116. A writ of mandamus is a remedy to be used on occasions where the law has established no specific remedy and justice requires it. *State v. Vittitow*, 358 Ark. 98, 186 S.W.3d 237 (2004).

117. Mandamus is not a writ of right but is within the judicial discretion of the court to issue or withhold. *Robertson v. Norris*, 360 Ark. 591, 203 S.W.3d 82 (2005).

118. The purpose of the writ is to enforce an established right or to enforce the performance of a duty. *Manila School District No. 15 v. Wagner*, 357 Ark. 20, 159 S.W.3d 285 (2004).

119. The Court should either enter an ordering the defendants to rescind its order taking over the entire LRSD.

INJUNCTIVE RELIEF

120. Plaintiffs incorporate and re-allege each allegation in paragraphs 1 - 113 of this complaint as set forth word for word.

121. Tony Woods, who is now serving as the Little Rock School Board, has indicated that there will be no School Board meetings.

122. Consequently, there will be no means for parents or interested parties to address issues or concerns with the school board. Without a means to have input, there is no openness in the process.

123. In accordance with Ark. R. Civ. P. 65, this Court should immediately issue a temporary restraining order or preliminary injunction directing the Defendants to cease and desist from taking over the Little Rock School District.

124. Irreparable injury will occur if this court does not intervene.

125. Plaintiffs have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that this Court enter an order declaring that the acts of the Arkansas State Board of Education to be arbitrary, capricious, in bad faith, wanton, and ultra vires, issue the writ of prohibition, issue the writ of mandamus, and order the Defendants to return control of the LRSD to the duly elected Board of Directors of the LRSD, award Plaintiff attorney fees and cost of this action, together with all other just and proper relief to which they are entitled.

Respectfully submitted,

/s/Marion A. Humphrey
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Christopher Heller

From: Jeremy Lasiter (ADE) <Jeremy.Lasiter@arkansas.gov>
Sent: Tuesday, December 23, 2014 10:14 AM
To: Christopher Heller
Subject: RE: LRSD Academic Distress



Chris:

Thanks, Chris. Good to hear from you. I spoke with the academic distress office about your question. The entire district has not been found in academic distress, just individual schools.

WD Hamilton (ALE)
Accelerated Learning (ALE)
Hall
Cloverdale
McClellan
JA Fair
Henderson
Baseline

Forest Heights (This school has only been recently identified by the ADE as being in academic distress. It has not been found by the State Board to be in academic distress.)

Last year, several school districts with ALEs on the list appealed. I do not think that the two ALEs above were ever placed in academic distress by the State Board. It is also my understanding that the two ALEs have been closed by LRSD.

I hope this helps.

Jeremy

From: Christopher Heller [<mailto:Heller@fridayfirm.com>]
Sent: Tuesday, December 23, 2014 9:31 AM
To: Jeremy Lasiter (ADE)
Subject: LRSD Academic Distress

Jeremy – I know that LRSD has six schools in academic distress. Has the district itself also been found to be in academic distress? If so, could you send me a copy of any letter to that effect? Everyone at LRSD is out for winter break so I won't be able to get an answer there any time soon. Thanks and Merry Christmas. CH

CHRISTOPHER HELLER | ATTORNEY

FRIDAY | **ELDREDGE**
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SUMMARY REPT-GROUP DETAIL

PULASKI COUNTY, ARKANSAS
 2014 ANNUAL SCHOOL ELECTION
 SEPTEMBER 16, 2014

Official Results

RUN DATE:09/26/14 09:40 AM

EXHIBIT 2

	TOTAL VOTES	%	M100 Election	IVO Election	Early Vote	Absentee	Provisional
PRECINCTS COUNTED (OF 135)	60	44.44					
REGISTERED VOTERS - TOTAL	239,237						
BALLOTS CAST - TOTAL	6,655		4,628	55	1,598	367	7
BALLOTS CAST - BLANK	2	.03	2	0	0	0	0
VOTER TURNOUT - TOTAL		2.78					
VOTER TURNOUT - BLANK							
Little Rock School District Board of Dir							
LITTLE ROCK SCHOOL DISTRICT ZONE 1							
Vote for One 1							
NORMA JEAN JOHNSON	228	31.98	201	0	10	16	1
JOY C. SPRINGER	485	68.02	366	0	94	23	2
Over Votes	0		0	0	0	0	0
Under Votes	3		2	0	1	0	0
Little Rock School District Board of Dir							
LITTLE ROCK SCHOOL DISTRICT ZONE 5							
Vote for One 1							
JODY CARREIRO	221	36.83	197	0	13	11	0
JIM ROSS	379	63.17	350	0	14	15	0
Over Votes	0		0	0	0	0	0
Under Votes	3		3	0	0	0	0
North Little Rock School District Board							
NORTH LITTLE ROCK SCHOOL DISTRICT ZONE 5							
Vote for One 1							
SCOTT TEAGUE	185	53.31	154	0	24	7	0
PATRICK LANDER	162	46.69	128	0	28	6	0
Over Votes	0		0	0	0	0	0
Under Votes	4		3	0	1	0	0
North Little Rock School District Board							
NORTH LITTLE ROCK SCHOOL DISTRICT ZONE 6							
Vote for One 1							
SANDRA (SANDI) CAMPBELL	333	53.28	265	22	34	11	1
J.T. ZAKRZEWSKI	292	46.72	218	33	38	3	0
Over Votes	0		0	0	0	0	0
Under Votes	4		0	0	1	3	0
LRSD Millage LITTLE ROCK SCHOOL DISTRICT							
Vote for One 1							
FOR	1,036	71.89	783	0	128	123	2
AGAINST	405	28.11	278	0	54	72	1
Over Votes	1		1	0	0	0	0
Under Votes	66		57	0	5	3	1
NLRSD Millage NORTH LITTLE ROCK SCHOOL DISTRICT							
Vote for One 1							
FOR	661	65.00	481	32	107	40	1
AGAINST	356	35.00	258	23	45	30	0
Over Votes	0		0	0	0	0	0
Under Votes	36		29	0	7	0	0
Detachment from PCSSD							
PROPOSED JACKSONVILLE SCHOOL DISTRICT							
Vote for One 1							
FOR	3,769	94.53	2,579	0	1,163	25	2
AGAINST	218	5.47	153	0	63	2	0
Over Votes	0		0	0	0	0	0
Under Votes	10		9	0	0	1	0
PCSSD Millage PULASKI COUNTY SCHOOL DISTRICT							
Vote for One 1							
FOR	2,713	68.37	1,801	0	858	53	1
AGAINST	1,255	31.63	852	0	355	48	0
Over Votes	0		0	0	0	0	0
Under Votes	128		88	0	39	0	1