

July 10, 2015

**VIA EMAIL ONLY:**  
**mpoore@bentonvillek12.org**

Mr. Michael Poore, Superintendent  
BENTONVILLE SCHOOL DISTRICT  
500 Tiger Blvd.  
Bentonville, AR 72712

**Re: Recent United States Supreme Court Opinion Concerning Same-Sex Marriage**

Dear Mr. Poore:

I am writing to address the recent opinion of the United State Supreme Court concerning same-sex marriage.

On June 26, 2015, the Court issued its opinion in *Obergefell, et al. v. Hodges*, Case No. 14-556, holding that the Fourteenth Amendment to the United States Constitution requires a State to license a marriage between two people of the same-sex and to recognize a marriage between two people of the same-sex when their marriage was lawfully licensed and performed out-of-State. The Court thus ruled in favor of 14 same-sex couples who had filed suit in Michigan, Kentucky, Ohio and Tennessee to challenge statutes and constitutional amendments adopted in those States which define marriage as a union between one man and one woman. In finding that these State measures are unconstitutional, the Court relied upon the fundamental right to marry under the Constitution and the right to equal protection of the laws and due process of law under the Fourteenth Amendment.

The Court's opinion in *Obergefell* instructs State governments and their instrumentalities to issue marriage licenses to same-sex couples and to recognize the validity of same-sex marriages licensed in other States. The decision is not directed to other governmental entities that do not issue marriage licenses, nor is it directed to non-governmental parties who perform marriage ceremonies.

We do not believe the Court's opinion in *Obergefell* requires the Board of Directors of the Bentonville School District to change any of its policies or implement a new policy relating to same-sex marriages at this time. However, the decision warrants a closer review of any current policies and practices concerning employment benefits for married couples. Although the Court did not address the issue of employee benefits, it appears that treating married same-

Mr. Michael Poore

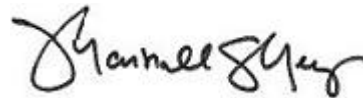
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sex couples differently from other married couples would subject the District to a legal challenge under the reasoning of the Court's opinion. Accordingly, we recommend that the District research and resolve the following additional questions: (a) whether the District's insurance providers impose any limitation on who can receive dependent insurance coverage or other benefits; (b) the status of any employees who claim to be married as a result of same-sex common law marriages; and (c) whether the Arkansas Department of Education has issued any new rules, regulations or recommendations relating to same-sex marriages in the aftermath of the Court's opinion.

We will be available to assist you in addressing these questions and any other questions that may arise. If you need clarification or any additional information concerning this analysis, please let me know.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Marshall S. Ney". The signature is written in a cursive, flowing style.

Marshall S. Ney

MSN:cec