

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

**PARENT PLAINTIFF LAKESHA
DOE and her minor child
DENNIS DOE; et al.**

PLAINTIFFS

v.

CASE NO. 4:15-CV-0623 DPM

**ARKANSAS DEPARTMENT OF
EDUCATION; et al.**

DEFENDANTS

STATE DEFENDANTS' MOTION TO DISMISS

The Defendants Toyce Newton, Jay Barth, Joe Black, Susan Chambers, Charisse Dean, Mireya Reith, Vicki Saviers, R. Brett Williamson, Diane Zook and Johnny Key, in their official capacities, and the Arkansas Department of Education (collectively the “State Defendants”) state for their motion to dismiss as follows:

1. In the guise of an equal protection claim the Amended Complaint challenges the authority of the Arkansas State Board of Education to assume authority over the Little Rock School District (“LRSD”). The Amended Complaint should be dismissed for the reasons set forth below.

2. The Amended Complaint fails to state facts upon which relief can be granted.

3. Upon the facts alleged in the Amended Complaint Plaintiffs Jim Ross and Joy Springer do not have standing to assert equal protection claims against the State Defendants.

4. The Amended Complaint is barred by Eleventh Amendment to the United States Constitution, and by sovereign immunity, to the extent it seeks relief based

upon alleged failures to comply with Arkansas law or to properly perform administrative duties.

5. As an agency of the State of Arkansas the Arkansas Department of Education is immune from suit.

6. Arkansas Commissioner of Education Johnny Key does not, as alleged, serve as the LRSD school board, and is therefore not a proper party to be sued as a representative of the LRSD.

Wherefore, the State Defendants pray that the Amended Complaint be dismissed, and for all other appropriate relief.

Respectfully submitted,
LESLIE RUTLEDGE
ATTORNEY GENERAL

By: /s/ Patrick Hollingsworth
LEE RUDOFISKY, Solicitor General
Arkansas Bar No. 2015105
(501) 682-8090
ROSALYN L. MIDDLETON, Assistant
Attorney General
Arkansas Bar No. 2001257
(501) 682-8122
PATRICK HOLLINGSWORTH, Assistant
Attorney General
Arkansas Bar No. 84075
(501) 682-1051
323 Center Street, Suite 200
Little Rock, AR 72201-2610
Facsimile: (501) 682-2591
lee.rudofsky@arkansasag.gov
rosalyn.middleton@arkansasag.gov
patrick.hollingsworth@arkansasag.gov

Attorneys for the State Defendants

CERTIFICATE OF SERVICE

I, Patrick Hollingsworth, hereby certify that on February 10, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which shall send notification of such filing to the following:

John W. Walker
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
501-374-3758
501-374-4187 (facsimile)
Email: johnwalkeratty@aol.com

Robert Pressman
22 Locust Avenue
Lexington, MA 02421
781-862-1955
Email: ehpressman@verizon.net

Austin Porter
PORTER LAW FIRM
323 Center Street
Little Rock, AR 72201
501-244-8200
Email: aporter5640@aol.com

Gale B. Stewart
1723 Broadway
Little Rock, AR 72206
501-374-3758
501-374-4187 (facsimile)
Email: letchworth1942@comcast.net

Christopher Heller (#81083)
Friday, Eldredge & Clark
400 West Capitol, Suite 2000
Little Rock, AR 72201-3493
(501) 370-1506
heller@fridayfirm.com

/s/ Patrick Hollingsworth
Patrick Hollingsworth