

MEETING SUMMARY

DESEGREGATION LITIGATION OVERSIGHT SUBCOMMITTEE

Monday, December 14, 2015

10:00 A.M.

Room 171, State Capitol  
Little Rock, Arkansas

Senator Linda Chesterfield, the Co-Chair of the Desegregation Litigation Oversight Subcommittee, called the meeting to order at 10:00 a.m.

**MEMBERS OF THE DESEGREGATION LITIGATION OVERSIGHT SUBCOMMITTEE IN ATTENDANCE:**

Senator Linda Chesterfield, Co-Chair; Representative Fredrick J. Love, Co-Chair; Senator Joyce Elliott; Senator Jeremy Hutchinson; Representative Mark Lowery; and Representative James J. Sorvillo.

**NON-LEGISLATIVE MEMBERS OF THE DESEGREGATION LITIGATION OVERSIGHT SUBCOMMITTEE IN ATTENDANCE:** Mr. Cedric Hawkins; and Mr. Jeremy Owoh.

**OTHER MEMBERS OF THE GENERAL ASSEMBLY IN ATTENDANCE:** Senator Bruce Maloch; Representative Charles Blake; Representative Andy Davis; Representative Kenneth B. Ferguson; Representative Dwight Tosh; and Representative John W. Walker.

Remarks by the Chairs

**Representative Fredrick J. Love**, State Representative, District 29, and Co-Chair of the Desegregation Litigation Oversight Subcommittee, was recognized, and introduced himself. Representative Love said he looked forward to working with the Subcommittee.

Senator Chesterfield announced that she believed in having succinct meetings; but that meetings should be thorough and the issues understood. She stated the role of the Subcommittee is to study what is being done to gain unitary status for schools that have not yet been declared unitary, and to provide assistance in this matter.

At the request of Senator Chesterfield, members of the Subcommittee introduced themselves.

Update on the Litigation Involving the Pulaski County Special School District (PCSSD)

Update on the Litigation Involving the School Districts in Garland County

Contributors to Today's Discussions:

**Ms. Kendra Clay**, General Counsel, Arkansas Department of Education

**Mr. Cory Cox**, Legislative Director, Office of the Attorney General

**Ms. Lori Freno-Engman**, Deputy General Counsel, Arkansas Department of Education

**Dr. Jerry Guess**, Superintendent, Pulaski County Special School District

**Mr. Johnny Key**, Commissioner, Arkansas Department of Education

**Mr. Isaac Linam**, Staff Attorney, Bureau of Legislative Research

**Ms. Rosalyn Middleton**, Assistant Attorney General, Office of the Attorney General

**Mr. Allen P. Roberts**, Attorney at Law, Attorney for Pulaski County Special School District Desegregation Case

**Dr. Janice Warren**, Assistant Superintendent for Equity and Pupil Services, Pulaski County Special School District

**Mr. Tony Wood**, Superintendent, Jacksonville/North Pulaski School District

Issues Included in the Discussion:

- Office of the Attorney General (OAG) providing update information to the House and Senate Interim Committees on Education,
- OAG weighing in on legislation,
- Arkansas Department of Education (ADE) monitoring cases and assisting the OAG,
- ADE's role working with school districts that have declared themselves as being less than unitary,
- role of the Pulaski County Special School District (PCSSD) Community Advisory Board (Advisory Board) and its relationship to the ADE,
- criteria for selection of members of the Advisory Board,
- weight given to the recommendations of the Advisory Board,
- continuation of quarterly status conferences on the detachment of the Jacksonville/North Pulaski School District (JNPSD),
- explanation of the Donaldson Scholars program,
- role of Dr. Jerry Guess, Superintendent, PCSSD, after PCSSD is returned to local control,
- clarifying the issue of local control and the chronology of returning PCSSD to local governance,
- overriding decisions made in Advisory Board hearings on personnel and student discipline issues,
- school districts other than PCSSD recognized to be under court order, and status of requests by the districts for release from court order,
- paying attention to school districts not under court order, and to policies and practices, in order to avoid the issue becoming repetitive; putting together a plan to preclude the yo-yo effect,
- request for a concise update from the OAG on the correct interpretation of categories in its December 14, 2015 memorandum,
- foreseeing anything on the horizon that would keep PCSSD under state control,
- ADE and its concern over any non-desegregation issue in PCSSD,
- state's involvement, if any, in other litigation cases,
- clarification of the role established for the subcommittee by statute; reduction of future litigation liability, and
- the state putting itself in a liability situation by encouraging the exercise of school choice.

**Mr. Cory Cox**, Legislative Director, Office of the Attorney General, was recognized, and presented a brief history of the litigation that started in 1989 involving the seven (7) school districts in Garland County.

Issues Included in the Discussion:

- evidence indicating the state has done its part in making sure the original settlement agreement has been followed, and
- request for present enrollment by race (K-12) of school districts in Garland County.

**Dr. Jerry Guess**, Superintendent, Pulaski County Special School District, was recognized. Dr. Guess updated the subcommittee on the PCSSD desegregation litigation. He said a global settlement was achieved some years ago. He said it resulted in three (3) years of continued level funding to use in the operation of the schools. He said a fourth year of the same amount of money, \$20.8 million in PCSSD's case, was also extended for the specific purpose of use in facilities funding. He stated this is the second year of that operational phasedown; so, this is the second year of flat funding for operational issues. He said next year will be the last year of flat funding for that purpose; so, there is one more year of funding to use in operating the district in line with what has been done in the past. The SY2017-18 funding will be restricted to facilities.

Senator Chesterfield clarified the funding timelines for operations and improving facilities, and noted this funding applies to the Little Rock School District (LRSD) and the North Little Rock School District (NLRSD), as well as PCSSD.

Dr. Guess continued that on July 1 of SY2016-17, the JNPSD will detach and stand alone. He said JNPSD will get a portion of that third year of operational money with which to perform their responsibilities concerning desegregation programming. He said they will also get a portion of that fourth year of facilities money with which they would be expected to perform facilities improvement to the benefit of facilities for the students in the JNPSD. Dr. Guess discussed a second issue. He said that on July 1 of 2011, there were nine (9) areas in which PCSSD was not unitary. He stated that since that time a unitary declaration has been sought and achieved for gifted and talented services, special education services, scholarships, and student assignment. He noted that five (5) areas are still not unitary: achievement, student discipline, facilities, staffing, and monitoring. He said it is anticipated that unitary status in staffing will be filed with the court, leaving four areas remaining not unitary.

Issues Included in the Discussion:

- ◆ basis for the decision on funding percentages,
- ◆ specific actions taken by PCSSD to increase the achievement of priority students, including the addition of interventions and interventionists, increasing staff, and providing staff professional development,
- ◆ number of children in PCSSD who have moved from below basic to proficient,
- ◆ current status and scheduling for the Scholars Program for gifted and talented students,
- ◆ block scheduling,
- ◆ implementation of dyslexia training in PCSSD,
- ◆ complexities surrounding the detachment of JNPSD from PCSSD,
- ◆ effect of detachment on the ability to improve facilities in PCSSD,
- ◆ racial makeup of PCSSD and JNPSD,
- ◆ M-to-M (majority to minority) transfers,
- ◆ number of students with dyslexia in special education,
- ◆ types of services and funding for special needs students,
- ◆ supplemental funding from the federal government for special needs services,
- ◆ circumstances to preclude PCSSD from being released from state supervision at the end of this school year,
- ◆ clarification of “special circumstance,” and
- ◆ planning for the loss of desegregation funds.

A lengthy discussion ensued pertinent to the possibility of PCSSD not being released from state supervision.

**The Honorable Joyce Elliott**, State Senator, District 31, was recognized. Senator Elliott queried that if there is a potential that PCSSD is not going to be released from fiscal distress and from state oversight because of loss of funds, and if PCSSD can no longer adequately fund what it needs to fund, should this issue not be brought to the attention of the Adequacy Study Committee (House and Senate Interim Committees on Education). She said, constitutionally, the State of Arkansas is responsible for funding education in the state; and, if the state has been complicit in causing all of this to happen, then it should be held accountable for a remedy, and the issue should be brought to the attention of the Adequacy Study Committee.

**Ms. Rosalyn Middleton**, Assistant Attorney General, Office of the Attorney General, was recognized. Ms. Middleton said that, according to the *Lake View* case, if the local level cannot provide an adequate education, then it does fall on the state; and, this is an issue that will need to be addressed by the Adequacy Study Committee. She said if PCSSD cannot do it, then it is on the state to make sure it is done.

Senator Chesterfield requested **Mr. Mark Hudson**, Senior Legislative Analyst, and Subcommittee Staff, to write a letter from the Desegregation Litigation Oversight Subcommittee to the Adequacy Study Committee requesting that this issue become a part of the adequacy discussion.

Issues Included in the Discussion:

- changes being made in the PCSSD as a result of the loss of desegregation funds,
- JNPSD starting off other than in fiscal distress,
- performance of students within a diverse racial and socioeconomic population,
- School Board elections and voting, and
- feasibility of the detachment.

Senator Chesterfield commented that those who pay taxes for districts should have a say in what goes on in those districts. She said it is time for the citizens of Pulaski County to get their district back, and to rebuild the confidence that what we say and what we do as citizens matters. She asked that, as we look at special circumstances, we do not use them as a reason to continue to disenfranchise the patrons of the PCSSD.

Exhibits:

Exhibit C1 – District Court Order 08/20/2015  
Exhibit C2 – JNPSD Detachment Order 10/14/2015  
Exhibit C3 – PCSSD Facilities Report 12/02/2015  
Exhibit C4 – JNPSD Status Report 12/02/2015  
Exhibit C5 – Joshua Intervenors Report 12/02/2015

Handouts:

Pulaski County and Garland County Desegregation Cases, Memorandum from Rosalyn Middleton, dated  
December 14, 2015  
Subchapter 15 – Desegregation Litigation – Legislative Oversight

Discussion of Future Meetings of the Subcommittee

Senator Chesterfield stated the Subcommittee would be expanding discussion about desegregation, not only in Pulaski County, but in other parts of the state.

Requests for Research:

District Level - Enrollment by Race (K-12) with School Counts by Level for SY2015-2016

Next Scheduled Meeting:

To be determined.

Adjournment:

The meeting adjourned at 12:43 p.m.

*Approved: 02/12/16*