

**CERTIFIED COPY OF THE RESOLUTION OF THE BOARD OF EDUCATION OF
CAMDEN FAIRVIEW SCHOOL DISTRICT NO. 16 OF OUACHITA COUNTY
ADOPTED AT THE BOARD'S REGULAR MEETING OF
MARCH 11, 2014**

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ATTORNEY'S OFFICE**

MAR 21 2014

**DEPARTMENT OF EDUCATION
GENERAL DIVISION**

WHEREAS, the Board of Education of Camden Fairview School District ("Camden Fairview School Board" and "CFSD") met in regular session on March 11, 2014, at 6:30 p.m. at Garrison Auditorium, in Camden, Arkansas; and,

WHEREAS, CFSD is subject to desegregation plans regarding the effects of past inter-district racial segregation (the "1991 Settlement Agreement" and the "2001 Settlement Agreement") filed in *Milton, et al. v. Huckabee, et al.*, United States District Court, Western District of Arkansas, El Dorado Division, Case No. 88-1142, in which the plaintiffs sought desegregation of the public schools of Ouachita County, Arkansas, which the plaintiffs alleged were racially segregated; and,

WHEREAS, United States District Judge Oren Harris entered a Consent Decree approving the 1991 Settlement Agreement on August 1, 1991 ("1991 Order"); and,

WHEREAS, United States District Judge Harry F. Barnes entered a Consent Order regarding the 2001 Settlement Agreement on December 27, 2001 ("2001 Order"); and,

WHEREAS, the 2001 Order states that CFSD has established a prima facie case that it has obtained unitary status and the case should be dismissed with prejudice except that the Court retained jurisdiction to enforce the terms of the 2001 Settlement Agreement; and,

WHEREAS, CFSD is also a party in *Lancaster, et al. v. Guess, et al.*, United States District Court, Western District of Arkansas, El Dorado Division, Case No. 09-CV-1056, which involved inter-district transfers between CFSD and Harmony Grove School District, another public school district located in Ouachita County, Arkansas; and,

WHEREAS, United States District Judge Harry F. Barnes entered an Order in the *Lancaster* case on July 26, 2010, finding that the remedial provisions set forth in the consent orders entered in *Milton* remain in full force and effect; and,

WHEREAS, on April 16, 2013, Governor Mike Beebe signed into law Act 1227, the Public School Choice Act of 2013, now codified as Ark. Code Ann. §§ 6-18-1901, *et seq.*, which was duly passed by the Arkansas General Assembly; and,

WHEREAS, Ark. Code Ann. §§ 6-18-1901, *et seq.*, establishes a public school choice program that would allow students who are residents of CFSD to apply for a school choice transfer to a non-resident district; and,

WHEREAS, Ark. Code Ann. § 6-18-1906(a) provides that "[i]f the provisions of this subchapter conflict with a provision of an enforceable desegregation court order or a district's

court-approved desegregation plan regarding the effects of past racial segregation in student assignment, the provisions of the order or plan shall govern”; and,

WHEREAS, the 1991 and 2001 Settlement Agreements and the 1991, 2001, and 2010 Orders constitute, respectively, a district’s “court-approved desegregation plan regarding the effects of past racial segregation in student assignment” and “an enforceable desegregation court order”; and,

WHEREAS, the United States District Court for the Western District of Arkansas, El Dorado Division, retains supervisory jurisdiction over the enforcement of the 1991 and 2001 Settlement Agreements and the 1991, 2001, and 2010 Orders, as those documents affect the desegregation efforts of CFSD, subject only to subsequent modifications or termination thereof by the Court; and,

WHEREAS, Ark. Code Ann. § 6-18-1906(b)(1) provides that “[a] school district annually may declare an exemption under this section if the school district is subject to a desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation”; and,

WHEREAS, CFSD is subject to a desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation; and,

WHEREAS, Camden, Arkansas historically operated racially dual school systems that segregated black and non-black students and was desegregated in the early 1970s by closing the black school(s) and merging their enrollment with the white students; and,

WHEREAS, the federal court or agency orders include the original directive from the *United States Supreme Court in Brown v. Board of Education of Topeka, Kansas* (1954), and its progeny, that maintenance of racially dual public schools was unconstitutional and directing that racially segregated schools be dismantled; and the 1969 mandate from the federal department of Health, Education, and Welfare to the same effect; and the various orders entered over the years in *Milton, et al. v. Huckabee, et al.*, United States District Court, Western District of Arkansas, El Dorado Division, Case No. 88-1142, and *Lancaster, et al. v. Guess, et al.*, United States District Court, Western District of Arkansas, El Dorado Division, Case No. 09-CV-1056; and,

WHEREAS, by resolution of this Board dated April 23, 2013, CFSD declared itself exempt from Ark. Code Ann. §§ 6-18-1901, *et seq.* for the 2013-14 school year pursuant to Ark. Code Ann. § 6-18-1906(b)(1) and on the basis of the aforementioned federal court cases and orders, and agency mandates; and,

WHEREAS, Ark. Code Ann. § 6-18-1906(a) applies to CFSD, and even though CFSD also meets the requirements necessary to declare an exemption pursuant to Ark. Code Ann. § 6-18-1906(b)(1), meeting the requirements of Ark. Code Ann. § 6-18-1906(a) probably renders declaration of the § 6-18-1906(b)(1) exemption unnecessary; and,

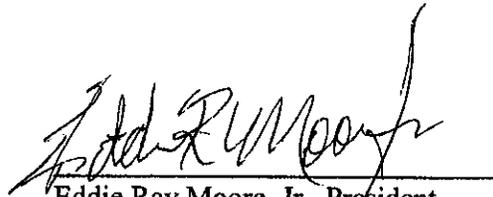
WHEREAS, CFSD, nevertheless, in an abundance of caution declares itself exempt from participation in school choice under § 6-18-1906(b)(1); and,

WHEREAS, for these reasons, CFSD shall not participate in public school choice as defined by Ark. Code Ann. §§ 6-18-1901, *et seq.*

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Camden Fairview School District, by a vote of 5 to 0, hereby declares: That CFSD remains subject to the jurisdiction of the United States District Court for the Western District of Arkansas by virtue of the orders and plans entered over the years in *Milton* and *Lancaster*, including but not limited to the 1991 and 2001 Settlement Agreements and the 1991, 2001, and 2010 Orders; that these settlement agreements, orders, and plans meet the requirements of Ark. Code Ann. § 6-18-1906(a); that meeting the requirements of Ark. Code Ann. § 6-18-1906(a) probably renders declaration of the § 6-18-1906(b)(1) exemption unnecessary; that nevertheless, CFSD in an abundance of caution and to the extent necessary also declares itself exempt under Ark. Code Ann. § 6-18-1906(b)(1); that for these reasons CFSD shall not participate in public school choice as defined by Ark. Code Ann. §§ 6-18-1901, *et seq.*; and that CFSD will follow all future orders of the United States District Court for the Western District of Arkansas, El Dorado Division regarding the continuing desegregation efforts of CFSD.

The Superintendent is directed to provide the Arkansas Department of Education with a copy of this resolution for notice and record-keeping purposes.

Dated this 11th day of March, 2014.


Eddie Ray Moore, Jr., President
Camden Fairview School District
Board of Education

CERTIFICATION

I, Macon Patton, Secretary of the Board of Education of Camden Fairview School District No. 16 of Ouachita County, Arkansas, hereby certify that the above and foregoing resolution was considered and adopted by said board at a regular session on March 11, 2014.


Macon Patton, Secretary
Camden Fairview School District
Board of Education