

Date: March 11, 2014

DISTRICT OPERATIONS  
Pulaski County Special School District

Action Item Number: New Business - 3

Subject: Resolution of PCSSD exemption from the provisions of Act 1227, the Public School Choice Act of 2013

Prepared by: Dr. Jerry Guess - Superintendent

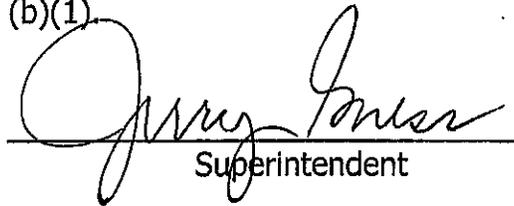
Rationale: Compliance with the provision of Act 1227, the Public School Choice Act of 2013, Section 6-18-1906 (b)(1)

Cost: N/A

Funding Source: N/A

Determination: Pursuant to the delegation of authority of the Commissioner, dated May 13, 2103, I have determined that P.C.S.S.D. hereby declares an exemption from Act 1227, the Public School Choice Act of 2013, Section 6-18-1906 (b)(1)

Approved By:

  
Superintendent

RECEIVED  
ATTORNEY'S OFFICE  
MAR 21 2014  
DEPARTMENT OF EDUCATION  
GENERAL DIVISION

**CERTIFIED COPY OF THE RESOLUTION OF  
ARKANSAS COMMISSIONER OF EDUCATION TOM KIMBRELL'S  
DELEGATEE, JERRY GUESS,  
ACTING IN THE STEAD OF THE BOARD OF EDUCATION  
OF PULASKI COUNTY SPECIAL SCHOOL DISTRICT,  
ADOPTED ON MARCH 11, 2014**

WHEREAS, Tom Kimbrell, Arkansas Commissioner of Education, is acting in the stead of the Board of Education of Pulaski County Special School District, ("PCSSD School Board" and "PCSSD"); and,

WHEREAS, on April 16, 2013, Governor Mike Beebe signed into law Act 1227, the Public School Choice Act of 2013, codified as Ark. Code Ann. §§ 6-18-1901, *et seq.*; and,

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

WHEREAS, Ark. Code Ann. § 6-18-1906(a) provides that, "If the provisions of this subchapter conflict with the provisions of an enforceable desegregation order or a 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, PCSSD is subject to the desegregation orders and court-approved desegregation plans entered over the years in *Little Rock School District v. Pulaski County Special School District, et al.*, United States District Court, Eastern District of Arkansas, Western Division, Case No. 4:82-CV-866, which conflict with the provisions of Ark. Code Ann. §§ 6-18-1901, *et seq.*; and,

WHEREAS, Ark. Code Ann. § 6-18-1906(b)(1) alternatively 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, PCSSD is also subject to a desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation that would, in fact, conflict with the provisions of Ark. Code Ann. §§ 6-18-1901, *et seq.*; and,

WHEREAS, the school districts of Pulaski County, Arkansas historically operated racially dual school systems that segregated black and non-black students; and,

WHEREAS, pursuant to Commissioner Kimbrell's delegation of authority to Superintendent Dr. Jerry Guess, PCSSD on May 14, 2013, declared itself exempt from Act 1227 of 2013, the Public School Choice Act of 2013, for the 2013-14 school year pursuant to Ark. Code Ann. § 6-18-1906(b) 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 PCSSD, and even though PCSSD also meets the requirements necessary to declare an exemption pursuant to Ark. Code Ann. § 6-18-1906(b), meeting the requirements of Ark. Code Ann. § 6-18-1906(a) probably renders declaration of the § 6-18-1906(b) exemption unnecessary; and,

WHEREAS, PCSSD, nevertheless, in an abundance of caution declares itself exempt under § 6-18-1906(b)(1); and,

WHEREAS, Dr. Kimbrell by letter dated May 13, 2013, has delegated to Jerry Guess, Ed.D., superintendent of PCSSD, the full and complete authority to make the statements, declarations, and decisions mentioned in this resolution; and,

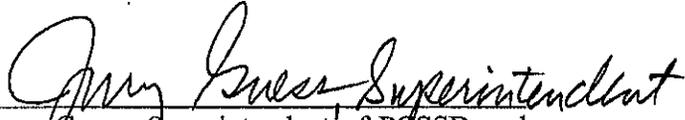
WHEREAS, for these reasons, PCSSD shall not participate in public school choice as defined by Act 1227.

NOW, THEREFORE, BE IT RESOLVED that Jerry Guess, delegatee of Tom Kimbrell, Arkansas Commissioner of Education, acting in the stead of the Board of Education of Pulaski County Special School District, hereby declares: That PCSSD remains subject to federal court jurisdiction in *Little Rock School District v. Pulaski County Special School District, et al.*, United States District Court, Eastern District of Arkansas, Western Division, Case No. 4:82-CV-866; that orders and plans referenced in that case 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) exemption unnecessary; that nevertheless, PCSSD in an abundance of caution and to the extent necessary also declares itself exempt under Ark. Code Ann. § 6-18-1906(b); that for these reasons PCSSD shall not participate in public school choice as defined by Ark. Code Ann. §§ 6-18-1901 *et seq.*; and that PCSSD will follow all future orders of the United States District Court for the Eastern District of Arkansas, Western Division regarding the continuing desegregation efforts of PCSSD.

THEREFORE, BE IT FURTHER RESOLVED that PCSSD Superintendent Jerry Guess is directed to carefully monitor and study the racial segregation implications of application of the Public School Choice Act of 2013 in other Arkansas districts, as well as the interest expressed therein within this district, and report the same to the Commissioner from time to time during 2014-2015; and,

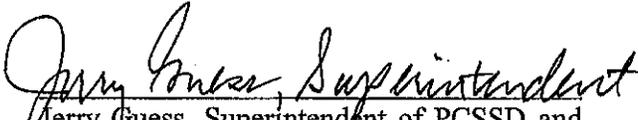
THEREFORE, BE IT FURTHER RESOLVED that PCSSD Superintendent Jerry Guess is directed to immediately notify the Arkansas State Department of Education of this declaration of exemption for the 2014-2015 school year.

Dated this 11th day of March, 2014.

  
Jerry Guess, Superintendent of PCSSD and  
Delegatee of Tom Kimbrell, Arkansas  
Commissioner of Education

**CERTIFICATION**

I, Jerry Guess, Superintendent of PCSSD and Delegatee of Tom Kimbrell, Arkansas Commissioner of Education, hereby certify that the above and foregoing resolution was considered and adopted on March 11, 2014.

  
Jerry Guess, Superintendent of PCSSD and  
Delegatee of Tom Kimbrell, Arkansas  
Commissioner of Education