



TIM GRIFFIN
ATTORNEY GENERAL

Opinion No. 2026-106

October 5, 2026

The Honorable Jacob Oliva
Secretary of Education
Arkansas Department of Education
Four Capitol Mall
Little Rock, Arkansas 72201

Dear Secretary Oliva:

I am writing in response to your request for an advisory opinion in accordance with A.C.A. §§ 6-13-1501 et seq., which sets forth the requirements for creating a new school district by detachment. These statutes prohibit the State Board of Education from creating a school district by detachment that “hampers, delays, or in any manner negatively affects desegregation efforts of a school district or districts in this state.”¹ Before the entry of an order for election on the question of detachment, the State Board must seek an advisory opinion from the Office of the Attorney General concerning the impact of the proposed new school district on the State’s efforts to assist a school district or districts in desegregation.²

You report that the State Board is currently considering whether to enter an order for election on the question of detachment for the proposed Sherwood School District from the Pulaski County Special School District (PCSSD). You ask whether this proposed detachment would negatively affect any of the desegregation efforts of a school district or districts in the State.

RESPONSE

No, I do not believe the proposed detachment you describe would negatively impact the desegregation efforts of any school district in the State.

DISCUSSION

¹ A.C.A. § 6-13-1504(b)(2)(A) (“The state board shall not order any creation of a new school district by detachment under this subchapter or any other act or combination of any acts that hampers, delays, or in any manner negatively affects desegregation efforts of a school district or districts in this state.”).

² See A.C.A. § 6-13-1504(b)(2)(B).

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Because state-sanctioned racial segregation in public schools violates the Fourteenth Amendment's Equal Protection Clause,³ formerly segregated public schools must "take all steps necessary to eliminate the vestiges"⁴ of the unconstitutional *de jure* segregation "as far as practicable."⁵ But the Constitution does not mandate racial balances. Nor are school districts obligated to remedy racial imbalances caused by something other than a "*de jure* system" of segregation.⁶ Indeed, outside of the context of remediation for past *de jure* segregation,⁷ the use of racial classifications in conducting school-district assignments is subject to strict scrutiny,⁸ and the use of "outright racial balancing" is "patently unconstitutional."⁹

Thus, the question here is whether the PCSSD, or the area that would constitute the new Sherwood School District, is currently engaged in "desegregation efforts" to remedy and eliminate the effects of previous state-sanctioned segregation. I believe the answer to this question is "no." Arkansas law requires school districts subject to desegregation orders or desegregation-related orders to notify the Division of Elementary and Secondary Education in writing.¹⁰ Yet the Arkansas Department of Education (ADE) has indicated that no school district potentially affected by this detachment is under a federal desegregation order, nor has any such district reported any other desegregation obligation to ADE.¹¹ Likewise, no potentially affected school district has been issued a written exemption from participating in transfers under the Public School Choice Act for the upcoming school year.¹²

In conclusion, it does not appear that the detachment of the proposed Sherwood School District from the PCSSD would negatively impact any school district's existing desegregation obligations.

³ See *Brown v. Board of Educ. of Topeka, Kan.*, 347 U.S. 483 (1954).

⁴ *Freeman v. Pitts*, 503 U.S. 467, 485 (1992).

⁵ *Bd. of Educ. of Okla. City Pub. Sch. Dist. No. 89, Okla. Cty., Okla. v. Dowell*, 498 U.S. 237, 250 (1991).

⁶ *Freeman*, 503 U.S. at 493.

⁷ *De jure* segregation may be found through a codified dual system of public education or through a showing of a state actor's unlawful segregative intent. See *Keyes v. School Dist. No. 1, Denver, Colo.*, 413 U.S. 189 (1973).

⁸ See, e.g., *Parents Involved in Community Schools v. Seattle School Dist. No. 1*, 551 U.S. 701 (2007).

⁹ *Grutter v. Bollinger*, 539 U.S. 306 (2003).

¹⁰ See A.C.A. § 6-13-113.

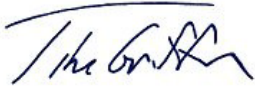
¹¹ At one time, the PCSSD was subject to a federal desegregation order. See *Little Rock Sch. Dist., et al., v. Pulaski Cnty. Special Sch. Dist., et al.*, 778 F.2d 404 (8th Cir. 1985). The school district remained subject to the desegregation order as recently as 2026. See *Little Rock Sch. Dist., et al., v. Pulaski Cnty. Special Sch. Dist., et al.*, No. 4:82-CV-00866-DPM (E.D. Ark. Feb. 26, 2026). However, this desegregation order is no longer in place.

¹² If a school district is subject to an enforceable desegregation court order or a court-approved desegregation plan that limits the transfer of students between school districts, the school district must give the Division of Elementary and Secondary Education proof that school choice conflicts with such an order or plan. See A.C.A. § 6-18-1906.

However, as is always the case with any proposed detachment, the State Board may not order or approve any proposed detachment with the purpose or intent to create racially segregated schools.

Senior Assistant Attorney General Justin Brascher and Deputy Attorney General Kelly Summerside prepared this opinion, which I hereby approve.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim Griffin", with a horizontal line above it.

TIM GRIFFIN
Attorney General