

ARKANSAS DEPARTMENT OF EDUCATION  
RULES GOVERNING THE GUIDELINES, PROCEDURES, AND ENFORCEMENT OF THE  
ARKANSAS PUBLIC SCHOOL CHOICE ACT  
October 2007

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Rules Governing the Guidelines, Procedures, and Enforcement of the Arkansas Public School Choice Act.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education's authority for promulgating these rules is pursuant to Ark. Code Ann. §§ 6-11-105, 6-15-429, 6-18-206 and Act 552 of 2007.

3.00 DEFINITIONS

3.01 Student – for purposes of this rule means any person legally enrolled or entitled to be enrolled in a public school district in Arkansas.

3.02 Resident district - for purposes of this rule means the public school district where a student is considered to reside pursuant to Ark. Code Ann. § 6-18-202.

3.03 Non-resident district - for purposes of this rule means the public school district a student last made legal application to attend pursuant to the Arkansas Public School Choice Act for the current school year.

3.04 Application - for purposes of this rule means a request submitted to a non-resident district to transfer from a student's resident district to a non-resident district on the official form approved by the Arkansas Department of Education.

3.05 Board - for purposes of this rule means the Arkansas State Board of Education.

3.06 Department - for purposes of this rule means the Arkansas Department of Education.

3.07 Minority - for purposes of this rule minority includes the following racial groups: African American, Hispanic, Asian or Pacific Islander, American Indian or Alaskan Native.

3.08 Majority - for purposes of this rule majority includes the following racial group: Caucasian.

4.00 PROCESS AND PROCEDURES FOR SCHOOL DISTRICT PARTICIPATION IN PUBLIC SCHOOL CHOICE PROGRAM

4.01 Each school district shall participate in public school choice consistent with this section.

- 4.02 Every school district must adopt a resolution setting forth specific standards for acceptance and rejection of applications.
  - 4.02.1 Such standards may include the capacity of a school program, class, grade level, or school building.
  - 4.02.2 School districts shall not be required to add teachers, staff, or classrooms or in any way exceed current requirements or standards established by existing law when considering whether to accept an application.
  - 4.02.3 A school district's standards shall include a statement that priority will be given to applications of siblings or step-siblings residing in the same residence or household of students already attending the district by choice where an application has been filed.
  - 4.02.4 A school district's standards for acceptance and rejection of applications shall not include a student's previous academic achievement, athletic or extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings except that an expulsion from another school district may be included as a standard.
- 4.03 A district shall make public announcements over the broadcast media and in print media at such times and in such manner so as to inform parents or guardians of students in adjoining districts of the availability of the program, the July 1 application deadline, and the requirements and procedure for nonresident students to participate in the program.

5.00 PROCESS AND PROCEDURES FOR APPLICATIONS FOR TRANSFER PURSUANT TO THE PUBLIC SCHOOL CHOICE PROGRAM

- 5.01 Any student may make application to enroll and attend a school in a district in which the student does not reside, subject to the restrictions and procedures contained in this rule and regulation and Arkansas law.
  - 5.01.1 Before a student may attend a school in a nonresident district, the student's parent or guardian must submit an application on the form approved by and provided by the Department (see attached application) to the nonresident district.
  - 5.01.2 The application to the nonresident district must be postmarked no later than July 1 of the year the student would begin the fall semester in the nonresident school district.
- 5.02 Any student attending a resident district classified as being in academic distress shall be eligible and entitled to apply to transfer to another geographically contiguous nonresident district not in academic distress during the time period a district is classified as being in academic distress, subject to the restrictions allowed in 5.02.1 and 8.00.

- 5.02.1 Any student submitting an application under this section shall not be required to file the petition by the July 1 deadline, but shall meet all other requirements and conditions of this rule.
- 5.03 Within thirty (30) days of receipt of an application for public school choice transfer from a nonresident student, the nonresident district shall notify the parent or guardian and the resident district in writing (via first class United States mail) as to whether the nonresident district accepted or rejected the student's application.
- 5.03.1 If the application is rejected, the nonresident district must state in the notification letter the specific reasons for rejection.
- 5.03.2 If the application is accepted, the nonresident district shall state in the notification letter:
- a. An absolute deadline for the student to enroll in the district, or the acceptance notification is null; and
  - b. Any instructions for the renewal procedures established by the district.
- 5.04 Any student who accepts a school choice transfer may return to his or her school district during the course of the school year.
- 5.04.1 If a transferred student returns to his or her resident district during the school year, the student's transfer is voided and the student shall reapply for any future transfer.
- 5.05 Any student that submitted a valid application for transfer, which was denied a transfer by the nonresident district, may petition the Board to reconsider the application for transfer. The petitioning party shall set forth its arguments and evidence supporting the request for the Board's reconsideration of the application along with a copy of the nonresident district's notification of rejection letter.
- 5.05.1 The petition for reconsideration before the Board shall be in writing and shall be postmarked (via certified first class United States mail, return receipt requested) no later than ten (10) days after the student or student's parents or guardian receives notice of rejection from the nonresident district. Any request for a hearing before the Board must be made in the petition for reconsideration.
- 5.05.2 The petitioning party must mail or personally file their petition for reconsideration of the application to the nonresident district with the Office of the Director of the Department.
- 5.05.3 The nonresident district may submit in writing additional information, evidence or arguments supporting its rejection of the student's application.

- 5.05.4 The Board, at its sole discretion, may grant a public hearing on the petition for reconsideration or consider without a public hearing the petition, briefs and evidence submitted in writing before issuing its final decision on the petition for reconsideration of the application.
- 5.05.5 The Board may require the nonresident district to reconsider its rejection of the student application by a date established by the Board before deciding whether to grant the petition for reconsideration of the application.
- 5.05.6 The Board, at its discretion, shall have the authority to require any person associated with the student application (i.e. student, parent, guardian, etc.), the nonresident district or the resident district to appear in person or by pleading before the Board as a witness on the matter of a petition for reconsideration of an application.

#### 6.00 TRANSPORTATION OF STUDENTS IN PUBLIC SCHOOL CHOICE PROGRAM

- 6.01 Transportation of a student from the resident district to a nonresident district is the responsibility of the student or the student's parents or guardians.
  - 6.01.1 When a student transfers under section 5.02, the cost of transportation of a student from the resident district to the nonresident district shall be the responsibility of the resident district.
- 6.02 The nonresident district may enter into a written agreement with the student, student's parents or guardians, or resident school district to provide transportation to or from any place in the resident district to the nonresident district, or both.
- 6.03 A nonresident district shall terminate transportation services to a student upon receipt of written notice (via certified first class United States mail, return receipt requested) from the Department to cease and desist transporting a student from the student's resident district.

#### 7.00 NONRESIDENT DISTRICT'S RESPONSIBILITIES

- 7.01 The nonresident district shall accept all credits toward graduation of a student that were awarded by another district.
- 7.02 The nonresident district shall award a diploma to a nonresident student accepted for transfer under the Public School Choice Program if that student meets the nonresident district's graduation requirements.
- 7.03 The nonresident student accepted for transfer under the Public School Choice Program shall be counted as a part of the average daily membership of the nonresident district to which the student transferred.

8.00 PROVISIONS FOR AND LIMITATIONS ON PUBLIC SCHOOL CHOICE TRANSFERS

8.01 No student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that percentage in the student's resident district, except as provided in 8.01.1 and 8.01.2.

8.01.1 A transfer is permitted if (1) the transfer is between districts within the same county; and (2) if the transfer does not result in either district exceeding the acceptable range of variance for representation of minority/majority students. The acceptable range of variance is determined as provided in Section 8.02, or

8.01.2 A transfer is permitted if each school district affected by the transfer does not have a critical mass of minority percentages of more than ten percent (10%) of any single.

8.02 The Department shall each year compute the minority/majority racial percentage(s) of the public school population for each county from the October Annual School Report. School districts may vary in the under-representation or over-representation of minority/majority students by a maximum of twenty-five percent (25%) of the difference in majority/minority percentages for the county as determined by the Department. For example, when the Department has calculated the county's racial balance for each student race category, each district is allowed an over-representation or under-representation of minority or majority students of a range of up to twenty-five (25%) of the county's racial balance.

8.03 No student transfer shall be permitted under the Public School Choice Program when such a transfer would conflict with a district's desegregation court order or a district's court-approved desegregation plan.

9.00 REPORTING AND MONITORING OBLIGATIONS

9.01 The Department shall monitor school districts for compliance with the Public School Choice law (Ark. Code Ann. § 6-18-206) and these rules.

9.02 Each school district shall provide to the Department, within thirty (30) working days of receipt of a written request from the Department, any information or reports the Department deems necessary for review and determination of the school district's compliance with the Public School Choice law and these rules.

9.03 All school districts shall report to the Equity Assistance Center of the Department on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.

9.04 The reports may be on those forms that are prescribed by the Department, or the data may be submitted electronically by the district using a format authorized by the Department.

9.05 The Department may withhold state aid from any school district that fails to file its report each year or fails to file any other information with a published

deadline requested from school districts by the Equity Assistance Center, so long as thirty (30) calendar days are given between the request for the information and the published deadline, except when the request comes from a member or committee of the General Assembly.

## 10.00 DISPUTES

- 10.01 Any school district may petition the State Board of Education to resolve alleged disputes arising under subsections (b) – (f) of Ark. Code Ann. § 6-18-206.
- 10.02 Any school district seeking to petition the State Board of Education must submit with its petition proof of public notice of the district’s intent to petition the State Board. The public notice shall be published at least once per week for two consecutive weeks in a newspaper of general circulation in all the school districts impacted or involved in the alleged dispute.
- 10.03 The school district shall file its written petition with the Office of the Director of the Department at least thirty (30) working days prior to the State Board of Education meeting where the petition will be heard.
- 10.04 The school district shall provide proof in the petition that they have served (via certified first class United States mail, return receipt requested) a copy of their petition to the superintendent of all other school districts involved in the alleged dispute.
- 10.05 The petition shall set forth in writing the particular issues of dispute under the Public School Choice Program, the specific relief for which the petitioning party is requesting the Board to address, and shall list all school districts and other relevant parties in the dispute.
- 10.06 The petition shall set forth what efforts have been attempted by all relevant school boards and superintendents of the involved school districts to resolve the alleged dispute.
- 10.07 The petition shall state in writing whether the petitioning school district requests a hearing before the Board.
- 10.08 The Board, in its sole discretion, shall determine whether to grant a public hearing on a petition or to take action on the petition and pleadings submitted without granting a public hearing.
- 10.09 Any school district that is listed as a party in a petition to resolve a dispute shall file a written response with the Office of the Director of the Department. The written response shall be submitted for the Board’s consideration along with the petition within ten (10) working days of receipt of notice of the petition.
- 10.10 The Board shall issue a written decision regarding all issues of alleged dispute mentioned in the petition, and the written decision shall be served on all the school districts listed as parties of dispute in the petition (via certified first class United States mail, return receipt requested) within twenty (20) working days of the Board’s final decision.

- 10.11 Except for the procedures specifically set forth in Ark. Code Ann. § 6-18-206 and these rules, all hearings conducted by the Board shall be conducted pursuant to the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-201 et. seq..

Arkansas Code of 1987 Annotated Official Edition

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\*\*\* Legislation is current through the 2012 Fiscal Session and updates \*\*\*  
\*\*\* received from the Arkansas Code Revision Commission through \*\*\*  
\*\*\* August 1, 2012. \*\*\*

## Title 6 Education

## Subtitle 2. Elementary And Secondary Education Generally

## Chapter 18 Students

## Subchapter 2 -- Attendance

## A.C.A. § 6-18-206 (2012)

**6-18-206. Public school choice.**

**(a) (1)** This section may be referred to and cited as the "Arkansas Public School Choice Act of 1989".

**(2)** The General Assembly finds that the students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents or guardians are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some marginal students will stay in school and that other, more motivated students will find their full academic potential.

**(3)** The General Assembly further finds that giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools since teachers, administrators, and school board members will have added incentive to satisfy the educational needs of the students who reside in the district.

**(4)** The General Assembly therefore finds that these benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any district beyond the one in which the student resides, provided that the transfer by this student would not adversely affect the desegregation of either district.

**(5)** A public school choice program is hereby established to enable any student to attend a school in a district in which the student does not reside, subject to the restrictions contained in this section.

**(b) (1) (A)** Before a student may attend a school in a nonresident district, the student's parent or guardian must submit an application on a form approved by the Department of Education to the nonresident district by submitting the application to the superintendent of the school district. This application must be postmarked not later than July 1 of the year in which the student would begin the fall semester at the nonresident district.



**(B) (i)** Within thirty (30) days of the receipt of an application from a nonresident student seeking admission under the terms of this section, the superintendent of the nonresident district shall notify the parent or guardian and the resident district in writing as to whether the student's application has been accepted or rejected.

**(ii)** If the application is rejected, the superintendent of the nonresident district must state in the notification letter the reason for rejection.

**(iii)** If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

**(a)** An absolute deadline for the student to enroll in the district, or the acceptance notification is null; and

**(b)** Any instructions for the renewal procedures established by the district.

**(iv) (a)** Any student who accepts a school choice transfer may return to his or her resident district during the course of the school year.

**(b)** If a transferred student returns to his or her resident district during the school year, the student's transfer is voided, and the student shall reapply for any future transfer.

**(2) (A)** The school board of directors of every public school district must adopt by resolution specific standards for acceptance and rejection of applications. Standards may include the capacity of a program, class, grade level, or school building. Nothing in this section requires a school district to add teachers, staff, or classrooms or in any way to exceed the requirements and standards established by existing law. Standards shall include a statement that priority will be given to applications from siblings or stepsiblings residing in the same residence or household of students already attending the district by choice. Standards may not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings except that an expulsion from another district may be included pursuant to § 6-18-510.

**(B) (i)** Any student who applies for a transfer under this section and is denied a transfer by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

**(ii)** A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after notice of rejection of the application under subdivision (b)(1)(B) of this section is received by the student.

**(3)** Each school district shall participate in public school choice consistent with this section.

**(c)** The responsibility for transportation of a student from the student's resident school district to a nonresident school district shall be borne by the student or the student's parents. The nonresident school district may enter into a written agreement with the student, the student's parents, or the resident school district to provide transportation to or from any place in the resident district to the nonresident district, or both.

**(d) (1)** A nonresident district shall accept credits toward graduation that were awarded by another district.

**(2)** The nonresident district shall award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

**(e)** For purposes of determining a school district's state equalization aid, the nonresident student shall be counted as a part of the average daily membership of the district to which the

student has transferred.

**(f)** The provisions of this section and all student choice options created in this section are subject to the following limitations:

**(1)** No student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that percentage in the student's resident district except in the circumstances set forth in subdivisions (f)(2) and (3) of this section;

**(2) (A)** A transfer to a district is exempt from the restriction set forth in subdivision (f)(1) of this section if the transfer is between two (2) districts within a county and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and nonresident district remain within an acceptable range of the county's overall minority percentage in the student's race and majority percentages of school population as set forth by the department.

**(B) (i)** By the filing deadline each year, the department shall compute the minority percentage in the student's race and majority percentages of each county's public school population from the October Annual School Report and shall then compute the acceptable range of variance from those percentages for school districts within each county.

**(ii) (a)** In establishing the acceptable range of variance, the department is directed to use the remedial guideline established in Little Rock School District v. Pulaski County Special School District of allowing an overrepresentation or underrepresentation of black or white students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance.

**(b)** In establishing the acceptable range of variance for school choice, the department is directed to use the remedial guideline of allowing an overrepresentation or underrepresentation of minority or majority students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance;

**(3)** A transfer is exempt from the restriction set forth in subdivision (f)(1) of this section if each school district affected by the transfer does not have a critical mass of minority percentage in the student's race of more than ten percent (10%) of any single race;

**(4)** In any instance in which the provisions of this subsection would result in a conflict with a desegregation court order or a district's court-approved desegregation plan, the terms of the order or plan shall govern;

**(5)** The department shall adopt appropriate rules and regulations to implement the provisions of this section; and

**(6)** The department shall monitor school districts for compliance with this section.

**(g)** The state board shall be authorized to resolve disputes arising under subsections (b)-(f) of this section.

**(h)** The superintendent of the district shall cause public announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

**(i) (1)** All superintendents of school districts shall report to the Equity Assistance Center on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.

(2) The reports may be on those forms that are prescribed by the department, or the data may be submitted electronically by the district using a format authorized by the department.

(3) The department may withhold state aid from any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the Equity Assistance Center so long as thirty (30) calendar days are given between the request for the information and the published deadline except when the request comes from a member or committee of the General Assembly.

(4) A copy of the report shall be provided to the Joint Interim Oversight Committee on Educational Reform.

(j) (1) The department shall develop a proposed set of rules as it determines is necessary or desirable to amend the provisions of this section.

(2) The department shall present the proposed rules in written form to the House Interim Committee on Education and the Senate Interim Committee on Education by October 1, 2006, for review and consideration by the committees for possible amendments to this section and to the Arkansas Public School Choice Program by the Eighty-sixth General Assembly.

**HISTORY:** Acts 1989, No. 609, §§ 1-13; 1991, No. 214, § 1; 1991, No. 284, §§ 1-3; 1993, No. 655, § 1; 1995, No. 109, § 1; 1997, No. 112, § 10; 1999, No. 391, § 10; 1999, No. 1241, § 1; 2001, No. 1788, § 1; 2003, No. 1272, § 1; 2003 (2nd Ex. Sess.), No. 110, § 1; 2005, No. 2148, § 1; 2007, No. 552, § 1.

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1 of 1



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**A.C.A. § 6-18-206** (Copy w/ Cite)

Pages: 5

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**GARLAND COUNTY  
ORDER – JUNE 10, 2013**

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
HOT SPRINGS DIVISION

W.T. DAVIS, Individually;  
AARON GORDON and CARLTON R. BERRY  
on Behalf of a Class of Taxpayers  
of Garland County, Arkansas,  
similarly situated; and THE GARLAND  
COUNTY CHAPTER OF THE N.A.A.C.P.

PLAINTIFFS

v.

Civil No. 89-6088

HOT SPRINGS SCHOOL DISTRICT;  
STATE OF ARKANSAS; ARKANSAS STATE  
BOARD OF EDUCATION; THE COMMISSIONER  
OF THE STATE BOARD OF EDUCATION;  
CUTTER MORNING STAR SCHOOL DISTRICT;  
FOUNTAIN LAKE SCHOOL DISTRICT;  
JESSIEVILLE SCHOOL DISTRICT;  
LAKE HAMILTON SCHOOL DISTRICT;  
LAKESIDE SCHOOL DISTRICT; and  
MOUNTAIN PINE SCHOOL DISTRICT

DEFENDANTS

O R D E R

Now on this 10th day of June 2013, comes on for consideration the **Petition for Declaratory Relief** (document #161), brought by Cutter Morning Star School District, Fountain Lake School District, Jessieville School District, Lake Hamilton School District, Lakeside School District, and Mountain Pine School District (collectively, the "petitioning districts"). The Court, being well and sufficiently advised, finds and orders as follows with respect thereto:

1. This action was originally filed on August 18, 1989, seeking to remedy the effects of racial segregation in Garland County public schools.

2. On November 25, 1991, the parties entered into the Garland County School Desegregation Case Comprehensive Settlement Agreement ("Settlement Agreement"), in which they agreed -- among other things -- to implement the provisions of the **School Choice Act of 1989, Ark. Code Ann. § 6-18-206 (repealed 2013)**, with regard to the transfer of students between resident and non-resident districts.

3. Following a fairness hearing held on March 30, 1992, the Court approved the Settlement Agreement, finding it to be "fair and reasonable, [and] that it affords appropriate relief to the plaintiff class." (Order and Memorandum, p. 2, document #82). Noting that the Eighth Circuit Court of Appeals has favored such agreements in desegregation cases, the Court further concluded that "[n]othing has been presented to this court to vitiate [the] presumption of constitutionality and appropriateness" of the Settlement Agreement. (Order and Memorandum, p. 3, document #82).

4. On May 22, 2013, the petitioning districts filed the present Petition for Declaratory Relief, seeking the Court's approval to continue operating under the Settlement Agreement despite recent changes in the law.

Specifically, the petitioning districts point to the Court's 2012 decision in Teague, et al. v. Arkansas Board of Education, et al., Case No. 6:10-cv-6098-RTD, in which it found the School Choice Act of 1989 to be unconstitutional because it contained

race-based restrictions.

Moreover, in its most recent session, the Arkansas General Assembly repealed the 1989 Act by passing the **Public School Choice Act of 2013, Ark. Code Ann. §§ 1901-1909**, which contains no race-based restrictions.

5. Pursuant to the Public School Choice Act of 2013,

If the provisions of [the Act] 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.

**Ark. Code Ann. § 6-18-1906(a).**

The petitioning districts contend that the Settlement Agreement in this case is a court-approved desegregation plan and, thus, it is unaffected by the new law. They seek to maintain the status quo.

6. In response to the Petition, the plaintiffs and the remaining defendants agree that judicial clarification is warranted, and they ask the Court to grant the declaratory relief requested by the petitioning districts.

7. Upon review of the record, the Court first notes that some of the original parties are no longer necessary to this action and should be formally dismissed. While the Arkansas State Board of Education remains an essential party, its individual members -- who were made parties solely due to their membership -- are no longer members of that entity and, therefore, should be

dismissed.

Likewise, the Garland County Board of Education and its individual members should be dismissed as parties, as all county boards of education were abolished by Act 2190 of 2005, codified at Ark. Code Ann. § 6-12-317.

8. Regarding the merits of the Petition, the Court finds that the Settlement Agreement constitutes a court-approved desegregation plan that should remain in effect despite recent changes to the law on which the Settlement Agreement was partly based.

The provisions of the Settlement Agreement consist of more than the mere implementation of the 1989 Act. It is a contract that also addresses the districts' staff development, curricula, testing and assessments, special education and gifted-and-talented programs, student-teacher interactions, and other services designed to enhance and improve public education in Garland County.

The Settlement Agreement was approved by the Court after an appropriately noticed fairness hearing and reasonable opportunity for the filing and consideration of any objections to the plan. The 1992 Order and Memorandum reflects that the Court considered the Settlement Agreement in its entirety, as well as the presentations of the parties and the response from the community, before finding that it afforded the parties appropriate relief and



was reasonable in all aspects.

As such, the Settlement Agreement will remain in effect, and the parties will remain bound to enforce and comply with its terms.

**IT IS THEREFORE ORDERED** that the Garland County Board of Education, its individual members, and the individually named members of the Arkansas State Board of Education are hereby **dismissed as parties** to this action.

**IT IS FURTHER ORDERED** that the **Petition for Declaratory Relief** (document #161) is **granted**, and the Court hereby declares that:

\* The import of the Garland County School Desegregation Case Comprehensive Settlement Agreement and the Court's approval thereof was not simply a declaration that the parties would obey Arkansas law as it might from time to time be set forth in the School Choice Act of 1989;

\* Rather, the import of those actions was to incorporate by reference the language, terms, and provisions of the 1989 Act as a consent desegregation plan of the Court applicable to all public school districts within Garland County, Arkansas, for the purpose of remedying the vestiges of prior de jure racial segregation within the public education system of that county;

\* Accordingly, neither the judicial decision declaring the 1989 Act to be unconstitutional, nor the repeal of the 1989 Act,

have any impact per se on the efficacy of the Settlement Agreement; and

\* The Court retains supervisory jurisdiction over the enforcement of the Settlement Agreement subject only to subsequent modifications or termination thereof by the Court.

**IT IS SO ORDERED.**

/s/ Jimm Larry Hendren  
**JIMM LARRY HENDREN**  
**UNITED STATES DISTRICT JUDGE**