

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
____ DIVISION

BETTYE DUNN WRIGHT

PETITIONER

V.

CIV-2012-_____

ARKANSAS STATE BOARD OF EDUCATION

RESPONDENT

**PETITION FOR JUDICIAL REVIEW OF STATE AGENCY
ADMINISTRATIVE DECISION**

Comes now the Petitioner, Bettye Dunn Wright, by and through her attorneys, McKissic & Associates, PLLC, and for her Petition states as follows:

1. This is an appeal of a final action by a state agency, the Arkansas State Board of Education pursuant to the Arkansas Administrative Procedures Act codified at Ark. Code Ann. § 25-15-201 et. seq. This Court has jurisdiction and venue properly lies in this Court pursuant to Ark. Code Ann. § 25-15-212.
2. The Petitioner, Bettye Dunn Wright, was the Superintendent of the Dollarway School District for the 2011-2012 school year.
3. The Respondent, Arkansas State Board of Education, hereinafter, State Board, is a state board established under Ark. Code Ann. § 6-11-101 et. seq. and has its principal office and place of business Arkansas of the Board is the Executive Director thereof under Ark. R. Civ.P. 4(d)(7).

FACTS

4. The on May 17, 2012, State Board mailed a Probationary Letter – Year Two of Probation notice to the Dollarway School District. The letter confirmed that the Dollarway School District was determined to have violated accreditation standards for the 2011-12 school year and outlining possible actions that the State Board would take at a meeting to be held on June 11, 2012. See attached exhibit 1.

5. On June 11, 2012 the State Board held a hearing after which, on June 12, 2012, it entered Findings of Fact, Conclusions of Law, and Order finding that for the 2011-2012 school year the Dollarway School District violated the standards for accreditation by Dollarway High School experiencing transcript irregularities. Letter was delivered to Petitioner on June 12, 2012. See attached exhibit 2.

6. That pursuant to the State Board's Findings of Fact, Conclusions of Law, and Order and the school board was reconstituted by removing all of the board members and Petitioner was terminated.

7. Petitioner requests judicial review of a final decision of the Arkansas Department of Education entitled Findings of Fact, Conclusions of Law and Order, a copy of which is attached hereto as Exhibit 1. Said Order was delivered to Petitioner on June 12, 2012.

8. Issues for review include:

a. Whether the finding and conclusion of law that the Dollarway School District violated accreditation standards for the 2011-2012 school year supported by the facts and laws.

b. Whether the constitutional rights of the Petitioner were violated.

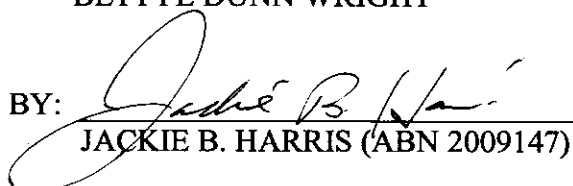
- c. Whether the State Board decision was in violation of the constitution or relevant statutory provisions.
- d. Whether the State Board decision was in excess of its statutory authority.
- e. Whether the State Board decision was supported by substantial evidence.
- f. Whether the action taken by the State Board was consistent with punishment imposed for like similar conduct.
- g. Any other error which may be revealed in the record.

9. Based upon the foregoing, a judicial review of the record should result in an Order remanding this case for further consistent proceedings to address the above issue and reversing the State Board's decision.

THEREFORE, Petitioner, Betty Dunn Wright, respectfully requests an Order of Judicial review remanding, modifying, and/or reversing the Arkansas State Board of Education's Findings of Fact, Conclusions of Law and Order; her costs and attorney's fees expended herein; and all other proper relief,

Respectfully submitted,
BETTYE DUNN WRIGHT

BY:


JACKIE B. HARRIS (ABN 2009147)

McKISSIC & ASSOCIATES, PLLC
116 West Sixth Avenue
P.O. Box 9587
Pine Bluff, Arkansas 71611
(870) 372-1414



ARKANSAS DEPARTMENT OF EDUCATION

Dr. Tom W. Kimbrell
Commissioner

PROBATIONARY LETTER – YEAR TWO OF PROBATION

May 17, 2012

State Board
of Education

Dr. Ben Mays
Clinton
Chair

Jim Cooper
Melbourne
Vice Chair

Joe Black
Newport

Brenda Gullett
Fayetteville

Sam Ledbetter
Little Rock

Alice Mahony
El Dorado

Toyce Newton
Crossett

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Dr. Bettye Dunn-Wright, Superintendent
Dollarway School District
4900 Dollarway Road
Pine Bluff, AR 71602

**Re: Second Year of Probationary Status
(VIA CERTIFIED AND REGULAR MAIL)**

Dr. Dunn-Wright:

On May 1, 2012, pursuant to Ark. Code Ann. § 6-15-203, the Arkansas Department of Education (ADE) notified you of the following school/school district failing to meet Standards for Accreditation for the 2011-12 school year (On-Site Review findings of transcript irregularities resulting in a violation of Rule 14, Standard IX of the Rules Governing Standards for Accreditation of Arkansas Public Schools and School Districts).

Dollarway High School

Pursuant to Ark. Code Ann. § 6-15-203, your school district had the right to appeal the ADE's determination to the Arkansas State Board of Education (State Board). The appeal was required to be filed by May 15, 2012. Your district did not appeal the ADE's determination.

On Monday, June 11, 2012, the State Board may confirm the Accreditation Status of Arkansas Public Schools and School Districts for the 2011-12 school year. In so doing, the State Board may also confirm the ADE's determination of the above-referenced standards violations. This school/school district was also classified as Accredited-Probationary for the 2010-11 school year. As a result, the following school/school district may be classified as Accredited-Probationary for a second consecutive year:

Dollarway High School

The purpose of this letter is to provide you with notice, pursuant to Ark. Code Ann. §§ 6-15-206-207, that the State Board is required to take action. Ark. Code Ann. § 6-15-207(b) provides that the State Board shall take at least one of the following actions

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

Exhibit 1

listed in Ark. Code Ann. § 6-15-207(c) to address any school or school district which has failed to meet all standards for accreditation for two (2) consecutive school years, including the year the probationary status is declared:

- (1) Require a school district to reorganize or reassign the administrative, instructional, or support staff of a public school;
- (2) Require a school or school district to institute and fully implement a curriculum that is based on state academic content and achievement standards, including providing appropriate professional development at the cost of the school district;
- (3) Remove a particular school from the jurisdiction of a school district and establish alternative public governance and supervision of the school or schools;
- (4) Require a school district to close down or dissolve a particular school or schools within a school district;
- (5) Annex a school district or districts or parts thereof with another receiving school district or districts pursuant to the authority of Ark. Code Ann. § 6-13-1401 et seq.
- (6) Consolidate a school district or districts or parts thereof with another school district or districts or parts thereof to form a resulting district pursuant to the authority of Ark. Code Ann. § 6-13-1401 et seq.
- (7) Reconstitute the leadership of a school district by removing permanently or suspending on a temporary basis the superintendent of the school district or any particular board members of a school district. The State Board shall have the authority to appoint an administrator or to call for the election of new school board members to administer the affairs and provide governance of the school district, or both; and
- (8) Take any other appropriate action allowed by law which is determined by the State Board to assist and address a school or school district failure to meet the standards for accreditation.

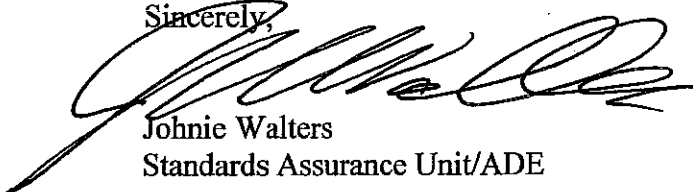
The State Board will take this matter into consideration during its scheduled meeting **Monday, June 11, 2012 in the Auditorium of the Arkansas Department of Education-Arch Ford Education Building, Four State Capitol Mall, Little Rock, Arkansas, at 9:00 a.m.** You will have an opportunity to address the State Board at that time. The State Board hearing will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by Ark. Code Ann. § 6-15-201 et seq. and the Arkansas Department of Education Rules Governing Standards for Accreditation of Arkansas Public Schools and School Districts. **Please be aware that the State Board may choose to take any of the above actions during its June 11, 2012 meeting.**

You and any other representatives of the Dollarway School District who can address questions from the State Board concerning this matter should plan to be in attendance during the meeting. Should you wish to submit any comments in writing, you may do so by submitting those documents to my office by **noon on Friday, May 25, 2012.**

Please also be advised that pursuant to Ark. Code Ann. § 6-15-208, your school district must publish the probationary status determination and findings of the State Board to the public and the parents or caregiver of each student enrolled in the school or school district determined to have failed to meet the standards for accreditation. The public notice must be in an understandable and uniform format. The public notice must also be published or disseminated, immediately after the State Board's determination, on your school district's website and published at least one (1) time a week for two (2) consecutive weeks in a local newspaper of general circulation in your school district.

Thank you for your attention to this matter. Please contact me at 501-683-4380 should you have any questions or require additional information.

Sincerely,



Johnie Walters
Standards Assurance Unit/ADE

cc: Tom W. Kimbrell, Ed.D, Commissioner of Education
Mr. John Hoy, Assistant Commissioner, Division of Academic Accountability
Mr. Jeremy C. Lasiter, General Counsel
Ms. Phyllis Stewart, State Board Liaison
Mr. Joe Blanks, Dollarway School Board
Mr. Efrem Elliott, Dollarway School Board
Ms. Cathy Hunt, Dollarway School Board
Mr. Robert Morehead, Dollarway School Board
Mr. George Stepps, Dollarway School Board
Mr. Gene Stewart, Dollarway School Board
Mr. Marvin Ray Walker, Dollarway School Board

**BEFORE THE ARKANSAS STATE BOARD OF EDUCATION
IN THE MATTER OF THE DOLLARWAY SCHOOL DISTRICT**

On June 11, 2012, at a meeting of the Arkansas State Board of Education (State Board) in Little Rock, Pulaski County, Arkansas, the State Board conducted a Standards for Accreditation hearing concerning the Dollarway School District. The State Board hereby issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Pursuant to the authority granted to it by the Arkansas General Assembly in Ark. Code Ann. § 6-15-201 et seq., the State Board adopted the Arkansas Department of Education Rules Governing Standards for Accreditation of Arkansas Public Schools and School Districts ("Standards for Accreditation"). (Exhibit 1).

2. For the 2010-2011 school year, the Dollarway School District (Dollarway High School) violated the following Standard(s) for Accreditation:

The Dollarway High School assigned an individual to teach business and marketing courses without the appropriate license. The individual did not meet the requirements for teaching outside of a licensed content area. This was in violation of the Arkansas Standards for Accreditation, Section 15.03.

3. Pursuant to Ark. Code Ann. § 6-15-203, the Arkansas Department of Education (ADE) notified the Dollarway School District of this violation by May 15, 2011.¹ (Exhibit 2). The Dollarway School District did not appeal the finding of the ADE under Ark. Code Ann. § 6-15-203. On June 13, 2011, the State Board approved the accreditation status of public schools and school districts, which made the above-referenced 2010-2011 Standards for Accreditation violation final and binding on the Dollarway School District. (Exhibit 3).

4. For the 2011-2012 school year, the Dollarway School District (Dollarway High School) violated the following Standard(s) for Accreditation:

The Dollarway High School experienced transcript irregularities, including: (a) one student graduating from high school without sufficient credits for graduation; and (b) credits were given for the same courses. This was in violation of the Arkansas Standards for Accreditation, Section 14.01. This violation was discovered on February 9, 2012 during an on-site review conducted by the ADE Standards Assurance Unit. (Exhibit 4).

¹ The version of Ark. Code Ann. § 6-15-203 that was in effect in May 2011 required the ADE to notify a school district of its annual accreditation status by May 15. A school district then had the right to appeal such notification by May 30. All such appeals must have been heard by the State Board by August 15 of the same calendar year. Those provisions were amended by Act 989 of 2011 (§§ 12-13). The current version of Ark. Code Ann. § 6-15-203 became effective on July 27, 2011.

5. Pursuant to Ark. Code Ann. § 6-15-203, the ADE notified the Dollarway School District of this violation by May 1, 2012. (Exhibit 5). Under Ark. Code Ann. § 6-15-203, the Dollarway School District had the right to appeal that finding to the State Board of Education by May 15, 2012. However, the Dollarway School District did not appeal the finding of the ADE. Instead, the Dollarway School District acknowledged the violation. (Exhibit 6).

6. On May 17, 2012, the ADE notified Dr. Bettye Dunn-Wright, Superintendent of the Dollarway School District, that due to the Dollarway School District's failure to meet standards for accreditation for two consecutive years, the State Board would be required to take at least one of the following actions set forth in Ark. Code Ann. § 6-15-207 (Exhibit 7):

- a. Require a school district to reorganize or reassign the administrative, instructional, or support staff of a public school;
- b. Require a school or school district to institute and fully implement a curriculum that is based on state academic content and achievement standards, including providing appropriate professional development at the cost of the school district;
- c. Remove a particular school from the jurisdiction of a school district and establish alternative public governance and supervision of the school or schools;
- d. Require a school district to close down or dissolve a particular school or schools within a school district;
- e. Annex a school district or districts or parts thereof with another receiving school district or districts pursuant to the authority of Ark. Code Ann. § 6-13-1401 et seq.;
- f. Consolidate a school district or districts or parts thereof with another school district or districts or parts thereof to form a resulting district pursuant to the authority of Ark. Code Ann. § 6-13-1401 et seq.;
- g. Reconstitute the leadership of a school district by removing permanently or suspending on a temporary basis the superintendent of the school district or any particular board members of a school district. The state board shall have the authority to appoint an administrator or to call for the election of new school board members to administer the affairs and provide governance of the school district, or both; and
- h. Take any other appropriate action allowed by law which is determined by the state board to assist and address a school or school district failure to meet the standards for accreditation.

7. Also on May 17, 2012, the ADE notified Dr. Wright that because the Dollarway School District did not appeal the May 1, 2012 probationary finding by the ADE, the State Board's consideration of the probationary status of the Dollarway School District, and what actions might be taken by the State Board under Ark. Code Ann. § 6-15-207, would take place on June 11, 2012. *Id.*

8. On June 11, 2012, the State Board approved the accreditation status of public schools and school districts, which made the above-referenced 2011-2012 Standards for Accreditation violation final and binding on the Dollarway School District. (Exhibit 8 – As substituted in the record on June 11, 2012).

9. For eight (8) of the last ten (10) school years, the Dollarway School District had at least one of its schools on probation. During that timeframe, the following schools in the Dollarway School District experienced at least one year of probation: Dollarway Junior High School/Dollarway Middle School (four times); Matthews Elementary School (once); Pinecrest Elementary School (once); and Dollarway High School (six times). (Exhibit 9).

CONCLUSIONS OF LAW

1. Pursuant to Ark. Code Ann. § 6-15-202(b)(1), “[a]ll public schools and school districts shall meet the Standards for Accreditation of Arkansas Public Schools and School Districts that shall be adopted by the state board.” The Dollarway School District (Dollarway High School) failed to meet the Standards for Accreditation of Arkansas Public Schools and School Districts for the 2010-2011 and 2011-2012 school years.

2. Pursuant to Ark. Code Ann. § 6-15-207(a), the State Board of Education may take any number of the actions listed in Ark. Code Ann. § 6-15-207(c) to address a school or school district failure to meet standards for accreditation any time after a school or school district has received notice of being placed on probationary status pursuant to Ark. Code Ann. §§ 6-15-202 and 6-15-203.

3. Pursuant to Ark. Code Ann. § 6-15-207(b), the State Board is required to take at least one of the actions listed in Ark. Code Ann. § 6-15-207(c) to address any school or school district which has failed to meet all standards for accreditation for two (2) consecutive school years, including the year the probationary status is declared pursuant to Ark. Code Ann. §§ 6-15-202 and 6-15-203, unless the State Board, at its discretion, issues written findings supported by a majority of the State Board that the school district could not meet current Standards for Accreditation for the relevant time period due to impossibility caused by external forces beyond the school district’s control.

4. The State Board does not find that the Dollarway School District (Dollarway High School) failed to meet Standards for Accreditation for the relevant time period due to impossibility caused by external forces beyond the control of the Dollarway School District.

5. As set forth above, Ark. Code Ann. § 6-15-207(c) authorizes the State Board to take at least one of the following actions to address the failure of the Dollarway High School or Dollarway School District to meet the Standards for Accreditation:

a. Require a school district to reorganize or reassign the administrative, instructional, or support staff of a public school;

- b. Require a school or school district to institute and fully implement a curriculum that is based on state academic content and achievement standards, including providing appropriate professional development at the cost of the school district;
- c. Remove a particular school from the jurisdiction of a school district and establish alternative public governance and supervision of the school or schools;
- d. Require a school district to close down or dissolve a particular school or schools within a school district;
- e. Annex a school district or districts or parts thereof with another receiving school district or districts pursuant to the authority of Ark. Code Ann. § 6-13-1401 et seq.;
- f. Consolidate a school district or districts or parts thereof with another school district or districts or parts thereof to form a resulting district pursuant to the authority of Ark. Code Ann. § 6-13-1401 et seq.;
- g. Reconstitute the leadership of a school district by removing permanently or suspending on a temporary basis the superintendent of the school district or any particular board members of a school district. The state board shall have the authority to appoint an administrator or to call for the election of new school board members to administer the affairs and provide governance of the school district, or both; and
- h. Take any other appropriate action allowed by law which is determined by the state board to assist and address a school or school district failure to meet the standards for accreditation.

ORDER

WHEREFORE, upon consideration of the facts, documentation and oral testimony made to it by all parties present, a majority of a quorum present of the members of the State Board ORDERS as follows:

THAT the leadership of the Dollarway School District be reconstituted through the permanent removal of the Dollarway School District superintendent and members of the Dollarway School District Board of Directors;

THAT the Commissioner of Education is hereby given the authority to appoint an administrator of his choice to administer the affairs and provide governance of the school district;

THAT the State Board hereby delegates to the Commissioner of Education the authority to govern the Dollarway School District; and

THAT the ADE shall report to the State Board, on a quarterly basis, the status of the Dollarway School District, with the first quarterly report being due in September 2012.

IT IS SO ORDERED.

SIGNED AND EXECUTED by the undersigned Chairman of the Arkansas State Board
of Education this 11th day of June, 2012.

A handwritten signature in black ink, appearing to read "Ben Mays", is written over a horizontal line.

Dr. Ben Mays, Chairman
Arkansas State Board of Education