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FOR MORE INFORMATION

Monday, July, 2014

State Representative Brett Geymann

3:15 PM CDT

(337) 302-4777

State Representative Cameron Henry

(504) 416-2398

LEGISLATORS FILE COURT ACTION FOR RULING ON COMMON CORE.

Ask Court to Rule that BESE & DOE Failed to Enact New Education Standards under Administrative Procedures Act; Enjoin Implementation.

Seventeen legislators have filed a court action in the 19th Judicial District, asking for a ruling on whether BESE and the Department of Education failed to properly enact the new Common Core academic standards under the Administrative Procedures Act, which governs rulemaking in all agencies of state government.

The legislators contend that BESE and DOE never implemented the changes in accordance with the Administrative Procedures Act, which prescribes a specific process, requiring public notice, a 90 day comment period, open hearings and legislative oversight.

The legislators point out that all changes to educational standards in the past were implemented properly under the APA as reflected in "Bulletins" published in the Louisiana Register that chronicle the current state of administrative law. There are no Bulletins for Louisiana Educational standards more recent than November 2005.

The legislators are asking the 19th Judicial District Court to rule on this major oversight, and stipulate that BESE and DOE failed to properly implement new educational standards under the Administrative Procedures Act.

(See petition below):

CIVIL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

NO. _____ DIVISION _____ SECTION: _____

JAMES ARMES, TERRY BROWN, HENRY BURNS, BRETT GEYMANN,
JOHNNY GUINN, LANCE HARRIS, JOE HARRISON, KENNY HAVARD, BOB
HENSGENS, CAMERON HENRY, PAUL HOLLIS, BARRY IVEY, SAM JONES,
ROGERS POPE, DEE RICHARD, JOHN SCHRODER, AND LANAR WHITNEY
(A/K/A CONCERNED CITIZENS OF LOUISIANA)

V.

STATE OF LOUISIANA, THROUGH THE LOUISIANA DEPARTMENT OF
EDUCATION'S SUPERINTENDANT, JOHN WHITE, AND THE LOUISIANA
STATE BOARD OF ELEMENTARY AND SECONDARY EDUCATION

FILED: _____

DEPUTY CLERK

**PETITION TO SUSPEND IMPLEMENTATION AND ENFORCEMENT OF
“COMMON CORE” FOR FAILURE TO FOLLOW THE PROVISIONS OF
LOUISIANA LAW, AND FOR INJUNCTIVE RELIEF**

NOW INTO COURT, through undersigned counsel, come the Petitioners, James
Armes, Terry Brown, Henry Burns, Brett Geyman, Johnny Guinn, Lance Harris, Joe
Harrison, Kenny Havard, Bob Hensgens, Cameron Henry, Paul Hollis, Barry Ivey, Sam
Jones, Rogers Pope, Dee Richard, John Schroder, and Lanar Whitney (collectively
hereinafter “Concerned Citizens of Louisiana”), who respectfully submit the following
Petition to Suspend Implementation and Enforcement of “Common Core State
Standards” (referred to herein as “Common Core”) for Failure to Follow the Provisions
of Louisiana Law and for Injunctive Relief:

1.

Made defendants herein are:

(A) Louisiana State Board of Elementary and Secondary Education,
(hereinafter referred to as “BESE”), which is a body corporate

created by the Louisiana Constitution VIII, § 3 and service may be made at 1201 North Third Street, Suite 5-190, Baton Rouge, LA 70802; and

(B) Mr. John White, in his official capacity as Louisiana Superintendent of Education for the Louisiana Department of Education, who may be served at 1201 North Third Street, Baton Rouge, LA 70802.

2.

Plaintiffs are residents and tax payers of the State of Louisiana. Several plaintiffs herein have children who are students within the state public school system.

3.

Defendant, BESE, is a body corporate created by the Louisiana Constitution Article VIII, § 3. BESE is charged with the duty to “supervise and control the public elementary and secondary schools and special schools under its jurisdiction and shall have budgetary responsibility for all funds appropriated or allocated by the state for those schools, all as provided by law.”

Defendant, John White, as the Superintendent of the Louisiana Department of Education, and in accordance with the Louisiana Constitution Article VIII, § 2, is the public official charged with the duty of being the administrative head of the Department of Education, and implementing the policies of the state board of elementary and secondary education and the laws affecting schools under his jurisdiction.

4.

All defendants herein are required to follow all Louisiana laws with reference to the adoption and implementation of policies and rules which impact the educational opportunities of Louisiana Public School children.

5.

Common Core is a set(s) of standards/rules that impact the education of Louisiana

public school children. The Common Core State Standards (CCSS) is currently set to replace the Louisiana English and Mathematics Standards/Grade-Level Expectations (GLEs), which were added to the State's standards and benchmarks in 2004.

6.

Common Core is set to become fully implemented in Louisiana public schools during the school year of 2014-15.

7.

On or about May 20, 2010, the Louisiana State Board of Elementary and Secondary Education, in its Board Meeting Minutes, entitled Agenda Item 9-I-5, adopted a resolution that committed BESE to adopt the controversial Common Core Standards no later than July 2010.

8.

On or about July 2010, according to BESE's website, Louisiana "joined with 44 other states and the District of Columbia by adopting the Common Core State Standards, a set of educational standards developed by a consortium of states to ensure consistent, quality education from school and from state to state."

9.

Petitioners fiercely contend that the adoption of these educational standards and/or the development of rules for the implementation and enforcement of these standards was, and is, in direct violation of the Louisiana Administrative Procedures Act (LAPA) Title 49: 953 (3) (b): Procedure for adoption of rules, which reads:

Notice of the proposed rule shall be published at least once in the Louisiana Register and shall be submitted with a full text of the proposed rule to the Louisiana Register at least seventy days prior to the date the department proposes to formally adopt the rule. The Office of the State Register may omit from the Louisiana Register any such proposed rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the Louisiana

Register contains a notice stating the general subject matter of the omitted proposed rule, the process being employed by the department for adoption of the proposed rule, and stating how a copy of the proposed rule may be obtained.

(emphasis added)

10.

Petitioners show that previous changes to educational standards were properly submitted as “Bulletins” in the Louisiana Register. However, the Louisiana Register fails to reflect that the “full text” of the proposed rule for adoptions and/or implementation of the Common Core standards were ever published, as required by law, or a notice of the general subject matter, as required by the LAPA.

11.

In failing to comply with the Louisiana Administrative Procedures Act Title 49: 953 (3) (b), said Petitioners, and other citizens of Louisiana, were denied their procedural due process rights to have their comments and concerns heard by Defendants prior to BESE’s adoption, and BESE’s and/or the Superintendents implementation and enforcement of the Common Core Standards.

12.

Irreparable harm to children, parents and teachers of children in the State public schools, and to taxpayers and citizens of the State exists, as the State public school year is set to begin in approximately one month from the filing of this petition. Unless an injunction issues herein by the Court, needless time and resources will be expended in the teaching, testing, learning, and financing of Common Core, all to the detriment of the citizens of Louisiana.

13.

As a result, Petitioners are requesting this Court to issue an immediate injunction to suspend the implementation and enforcement of Common Core State Standards for failure to follow the provisions of Louisiana Law until such required notice is made by

the defendants and for immediate and preliminary injunctive relief during the pendency of the notice process contemplated under the LAPA.

WHEREFORE, Petitioners, Concerned Citizens of Louisiana, pray that Defendants be served with a copy of this Petition to Suspend Implementation and Enforcement of Common Core for Failure to Follow the Provisions of Louisiana Law and for Temporary Injunctive Relief and be required to timely answer same; and after due proceedings, that judgment be rendered in Petitioners' favor and against the defendants including attorneys' fees, legal interest from date of judicial demand, and all just and equitable relief allowed by law.

Respectfully submitted,

BOLEN, PARKER, BRENNER, LEE, &
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A PROFESSIONAL LAW CORPORATION

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