

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY  
STATE OF MISSOURI**

JANINE MASSEY, INDIVIDUALLY )  
AND AS NEXT FRIEND TO CHASE M.; )  
JANDI COX, INDIVIDUALLY AND AS )  
NEXT FRIEND TO BOSTON L.; KARL )  
GRAY, JR., INDIVIDUALLY AND AS )  
NEXT FRIEND TO KARL G.; )  
RONNETTE MILLER, INDIVIDUALLY )  
AND AS NEXT FRIEND TO LONDYN )  
W.; DIANE WALTON-MCCRARY, )  
INDIVIDUALLY AND AS NEXT )  
FRIEND TO TANIYA W.; MELANIE )  
JOHNSON, INDIVIDUALLY AND AS )  
NEXT FRIEND TO JONATHAN J. AND )  
JOSEPH J.; AND SHARANDRA CARD, )  
INDIVIDUALLY AND AS NEXT )  
FRIEND TO DEZONTE B. AND EARL B., )

Plaintiffs, )

v. )

THE NORMANDY SCHOOLS )  
COLLABORATIVE, )

SERVE: )

Superintendent Tyrone McNichols )  
Or individual in charge of office )  
3855 Lucas and Hunt Road )  
St. Louis, MO 63121 )

and )

THE STATE OF MISSOURI, )

SERVE: )

Chris Koster, Attorney General )  
207 W. High St. )  
Jefferson City, MO 65102 )

and )

MISSOURI STATE BOARD OF )  
EDUCATION, )

Case No.: \_\_\_\_\_

Division: \_\_\_\_\_

SERVE: )  
Peter F. Herschend, President )  
Or individual in charge of office )  
205 Jefferson St. )  
Jefferson City, MO 65101 )

and )

MISSOURI DEPARTMENT OF )  
ELEMENTARY AND SECONDARY )  
EDUCATION, )

SERVE: )  
Chris L. Nicastro, Commissioner )  
Or individual in charge of office )  
205 Jefferson St., 6<sup>th</sup> Floor )  
Jefferson City, MO 65101 )

and )

PATTONVILLE SCHOOL DISTRICT, )

SERVE: )  
Superintendent Michael E. Fulton )  
Or individual in charge of office )  
11097 St. Charles Rock Road )  
St. Ann, MO 63074 )

and )

THE SCHOOL DISTRICT OF THE )  
CITY OF LADUE, )

SERVE: )  
Superintendent Donna Jahnke )  
Or individual in charge of office )  
9703 Conway Road )  
St. Louis, MO 63124 )

and )

THE SCHOOL DISTRICT OF CLAYTON, )

SERVE: )  
Superintendent Sharmon B. Wilkinson )

Or individual in charge of office )  
 Administrative Center )  
 #2 Mark Twain Circle )  
 Clayton, MO 63105 )  
 )  
 and )  
 )  
 BRENTWOOD SCHOOL DISTRICT, )  
 )  
 SERVE: )  
 Superintendent David Faulkner )  
 Or individual in charge of office )  
 1201 Hanley Industrial Court )  
 Brentwood, MO 63144 )  
 )  
 and )  
 )  
 PARKWAY SCHOOL DISTRICT, )  
 )  
 SERVE: )  
 Superintendent Keith Marty )  
 Or individual in charge of office )  
 455 N. Woods Mill Road )  
 Chesterfield, MO 63017 )  
 )  
 and )  
 )  
 RITENOUR SCHOOL DISTRICT, )  
 )  
 SERVE: )  
 Superintendent Chris Kilbride )  
 Or individual in charge of office )  
 2420 Woodson Road )  
 St. Louis, MO 63114 )  
 )  
 Defendants. )

**PETITION FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

COME NOW Plaintiffs Janine Massey, individually and as next friend to Chase M.;  
 Jandi Cox, individually and as next friend to Boston L.; Karl Gray, Jr., individually and as next  
 friend to Karl G.; Ronnette Miller, individually and as next friend to Londyn W.; Diane Walton-

McCrary, individually and as next friend to Taniya W.; Melanie Johnson, individually and as next friend to Jonathan J. and Joseph J.; and Sharandra Card, individually and as next friend to Dezonte B. and Earl B. (collectively referred to herein as “Plaintiffs”) and state the following in support of their Petition:

**PARTIES AND VENUE**

1. Plaintiff Janine Massey (“Massey”) sues in her individual capacity, as well as in her capacity as duly appointed next friend of her child Chase M. Massey is an individual residing with her child in St. Louis County, State of Missouri. Massey’s residence is located in the geographic area of the Normandy Schools Collaborative.

2. During the 2013-14 school year, Massey’s child attended school in the Pattonville School District as a transfer student from the Normandy School District pursuant to § 167.131 RSMo.

3. Plaintiff Jandi Cox (“Cox”) sues in her individual capacity, as well as in her capacity as duly appointed next friend of her child, Boston L. Cox is an individual residing with her child in St. Louis County, State of Missouri. Cox’s residence is located in the geographic area of the Normandy Schools Collaborative.

4. During the 2013-14 school year, Cox’s child attended school in the School District of the City of Ladue as a transfer student from the Normandy School District pursuant to § 167.131 RSMo.

5. Plaintiff Karl Gray, Jr. (“Gray”) sues in his individual capacity, as well as in his capacity as duly appointed next friend of his child Karl G. Gray is an individual residing with his child in St. Louis County, State of Missouri. Gray’s residence is located in the geographic area of the Normandy Schools Collaborative.

6. During the 2013-14 school year, Gray's child attended school in the Pattonville School District as a transfer student from the Normandy School District pursuant to § 167.131 RSMo.

7. Plaintiff Ronnette Miller ("Miller") sues in her individual capacity, as well as in her capacity as duly appointed next friend of her child, Londyn W. Miller is an individual residing with her child in St. Louis County, State of Missouri. Miller's residence is located in the geographic area of the Normandy Schools Collaborative.

8. During the 2013-14 school year, Miller's child attended school in the School District of Clayton as a transfer student from the Normandy School District pursuant to § 167.131 RSMo.

9. Plaintiff Diane Walton-McCrary ("Walton-McCrary") sues in her individual capacity, as well as in her capacity as duly appointed next friend of her child Taniya W. Walton-McCrary is an individual residing with her child in St. Louis County, State of Missouri. Walton-McCrary's residence is located in the geographic area of the Normandy Schools Collaborative.

10. During the 2013-14 school year, Walton-McCrary's child attended school in the Brentwood School District as a transfer student from the Normandy School District pursuant to § 167.131 RSMo.

11. Plaintiff Melanie Johnson ("Johnson") sues in her individual capacity, as well as in her capacity as duly appointed next friend of her children, Jonathan J. and Joseph J. Johnson is an individual residing with her children in St. Louis County, State of Missouri. Johnson's residence is located in the geographic area of the Normandy Schools Collaborative.

12. During the 2013-14 school year, Johnson's children attended school in the Parkway School District as transfer students from the Normandy School District pursuant to

§ 167.131 RSMo.

13. Plaintiff Sharandra Card (“Card”) sues in her individual capacity, as well as in her capacity as duly appointed next friend of her children Dezonte B. and Earl B. Card is an individual residing with her children in St. Louis County, State of Missouri. Card’s residence is located in the geographic area of the Normandy Schools Collaborative.

14. During the 2013-14 school year, Card’s children attended school in the Ritenour School District as transfer students from the Normandy School District pursuant to § 167.131 RSMo.

15. The children listed in paragraphs 1-14 above shall collectively be referred to herein as “the Students.”

16. Defendant Normandy Schools Collaborative (“NSC”) was formed by resolution of Defendant Missouri State Board of Education, allegedly pursuant to § 162.081.3(2)(b) RSMo, and is governed by a Joint Executive Governing Board. As of July 1, 2014, NSC operates the school district previously known as Normandy School District. The geographic area that comprises NSC is situated wholly within St. Louis County, State of Missouri.

17. Defendant State of Missouri (“the State”) is a governmental entity that has the capacity to sue and be sued.

18. Defendant Missouri State Board of Education (“the Board of Education”) is an agency of the State of Missouri created pursuant to Article IX, Section 2(a) of the Missouri Constitution. The Board of Education is responsible for the supervision of instruction in Missouri public schools, for setting policies for Defendant Missouri Department of Elementary and Secondary Education, and for making accreditation determinations and related decisions for Missouri public schools.

19. Defendant Missouri Department of Elementary and Secondary Education (“DESE”) is a department of the State of Missouri created by Article IV, Section 12 of the Missouri Constitution and § 161.020 RSMo. DESE is responsible for administration and promotion of the policies of the Board of Education throughout the public elementary and secondary schools of Missouri.

20. Defendant Pattonville School District is a school district situated within the same county as or an adjoining county to NSC, and has stated its intention to deny § 167.131 transfer status to the children of Massey and Gray for the 2014-15 school year.

21. Defendant School District of the City of Ladue is a school district situated within the same county as or an adjoining county to NSC, and has stated its intention to deny § 167.131 transfer status to Cox’s child for the 2014-15 school year.

22. Defendant School District of Clayton is a school district situated within the same county as or an adjoining county to NSC, and has stated its intention to deny § 167.131 transfer status to Miller’s child for the 2014-15 school year.

23. Defendant Brentwood School District is a school district situated within the same county as or an adjoining county to NSC, and has stated its intention to deny § 167.131 transfer status to Walton-McCrary’s child for the 2014-15 school year.

24. Defendant Parkway School District is a school district situated within the same county as or an adjoining county to NSC, and has stated its intention to deny § 167.131 transfer status to Johnson’s children for the 2014-15 school year.

25. Defendant Ritenour School District is a school district situated within the same county as or an adjoining county to NSC, and has stated its intention to deny § 167.131 transfer status to Card’s children for the 2014-15 school year.

26. Collectively, the school districts listed in paragraphs 20-25 shall be known as the “Receiving Districts” throughout this petition.

27. Venue is appropriate in St. Louis County under § 508.050 RSMo as the co-defendant Receiving Districts are municipal corporations situated within St. Louis County.

### **FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

#### **School Classification**

28. The Board of Education classified the Normandy School District as unaccredited effective January 1, 2013.

29. As a result of the Normandy School District’s unaccredited status, some pupil residents of the Normandy School District, including the Students, attended other school districts in St. Louis County or adjoining counties for the 2013-14 school year pursuant to § 167.131 RSMo.

30. Tuition costs for the pupil residents described in the preceding paragraph were paid with monies that would otherwise have remained with the Normandy School District, pursuant to § 167.131.1 RSMo.

31. Some of the Students attended private and parochial schools during the 2012-13 school year, in lieu of attending unaccredited schools within the Normandy School District.

32. On May 20, 2014, the Board of Education unanimously adopted a resolution that lapsed the Normandy School District as of June 30, 2014. **See Exhibit A.**

33. The resolution attached as **Exhibit A** also established NSC as of July 1, 2014, to retain and exercise all authority previously granted to the Board of Education of the Normandy School District, and to take actions necessary for the operation of NSC, subject to the advice and consent of the Board of Education.



34. On June 16 or 17, 2014, the Board of Education granted NSC a new school district status as a “state oversight district.” **See Exhibit B**, attached hereto.

35. As one Defendant noted, in taking the actions set forth in **Exhibit A** and **Exhibit B**, the Board of Education and DESE have made the unilateral determination that “state laws governing the transfer program no longer apply to Normandy . . . .” **See Exhibit C**, attached hereto.

36. The Board of Education and DESE do not have the authority to determine whether state laws apply to NSC.

37. Pursuant to § 161.092(9) RSMo, the Board of Education “shall...[c]lassify the public schools of the state . . . .”

38. Pursuant to 5 C.S.R. §20-100.105(3), in classifying schools as required in § 161.092(9) RSMo, the Board of Education “will assign classification designations of unaccredited, provisionally accredited, accredited, and accredited with distinction . . . .”

39. Despite the requirements of § 161.092(9) RSMo and 5 C.S.R. §20-100.105(3), the Board of Education did not classify NSC schools into any of the categories of unaccredited, provisionally accredited, accredited, or accredited with distinction. In fact, the Board of Education made the decision to give NSC schools no accreditation status.

40. Failure to classify the schools of NSC is an abrogation by the Board of Education of its duties under § 161.092(9) RSMo.

41. The above actions taken by the Board of Education and DESE in May and June, 2014, and establishing NSC as of July 1, 2014, came at such a late date in comparison to the beginning of the 2014-15 school year in the NSC and the Receiving Districts, that the Plaintiffs and the Students are unduly prejudiced in making their education determinations for the 2014-15

school year. For that and other reasons as stated in this Petition, extraordinary relief is warranted.

**Effect of Classification, or Lack Thereof**

42. Missouri revised statute § 167.131.1 allows each pupil resident of “each district in this state that does not maintain an accredited school” to attend an accredited school district in another district of the same or an adjoining county. The tuition costs of each such pupil resident shall be paid by the district that does not maintain an accredited school.

43. NSC is a district in this state that does not maintain an accredited school. This is true whether this Court determines that NSC’s true status is unaccredited, as the Board of Education previously labelled the Normandy School District, or whether it has no accreditation status, as the Board of Education attempted in its June 16-17 action. Either way, NSC “does not maintain an accredited school.”

44. Accordingly, NSC is required under § 167.131 RSMo to allow the Students to transfer to accredited school districts in St. Louis County or adjoining counties, and to pay the tuition costs for those children.

45. Defendants Receiving Districts are further required under § 167.131 RSMo to allow the Students to transfer into the Receiving Districts, and to set a rate of tuition for them under the formula prescribed in § 167.131.2 RSMo.

46. Instead of complying with § 167.131 RSMo, the Defendants in this matter are operating under a so-called “Operating Policy for Transfers from the Normandy Schools Collaborative” (the “Operating Policy”), attached hereto as **Exhibit D**.

47. Under the Operating Policy, certain Defendants purport to restrict transfers for the 2014-15 school year to only those NSC pupil residents who transferred to and attended another

district for the full 2013-14 school year, and who attended Normandy School District for at least one semester in the 2012-13 school year if they were Kindergarten students during that school year. These restrictions cannot be reconciled with § 167.131.1 RSMo.

48. In addition, under the Operating Policy, certain Defendants purport to calculate a new tuition formula for transfers from NSC to receiving districts. That new tuition formula is inconsistent with § 167.131.2 RSMo.

49. Upon information and belief, Defendant DESE has sent the Operating Policy to school districts that would potentially accept NSC pupil resident transfers for the 2014-15 school year, along with a request for those districts to inform DESE whether the district will “opt out” of § 167.131 completely and deny admission to any NSC transfer student for the 2014-15 school year.

50. Through the Operating Policy and the correspondence referenced in the preceding paragraph, DESE and the Receiving Districts are denying the Students the rights afforded them under § 167.131 RSMo and related statutes. Further, by “opting out” of accepting transfer students from NSC, certain Receiving Districts are denying the Students the rights afforded them under § 167.131 RSMo and related statutes.

51. By operation of the policies adopted at the May 20, 2014, and June 16-17, 2014, meetings, and by their actions taken in accordance with those meetings, the State and the Board of Education are denying the Students the rights afforded them under § 167.131 RSMo and related statutes.

**COUNT I**  
**DECLARATORY JUDGMENT AGAINST DEFENDANTS STATE**  
**MISSOURI AND MISSOURI STATE BOARD OF EDUCATION**

52. Plaintiffs incorporate Paragraphs 1-51 by reference into Count I as if fully set

forth herein.

53. Pursuant to § 161.092(9) RSMo, the Board of Education is required to classify the public schools of the state.

54. The only classification system currently operative is found in 5 C.S.R. §20-100.105(3), which authorizes the classification designations of unaccredited, provisionally accredited, accredited, and accredited with distinction.

55. From January 1, 2013, until it was lapsed on June 30, 2014, the Normandy School District was unaccredited.

56. When the State of Missouri and the Board of Education formed NSC effective July 1, 2014, they gave NSC no accreditation status at all.

57. Giving NSC no accreditation status at all is in violation of § 161.092(9) RSMo.

58. Upon information and belief, NSC has not met the requirements to be provisionally accredited, accredited, or accredited with distinction. Therefore, the only classification status available to NSC under § 161.092(9) RSMo and 5 C.S.R. §20-100.105(3) is unaccredited.

WHEREFORE, Plaintiffs request that this Court enter a judgment in their favor providing:

(a) a declaration that, pursuant to § 161.092(9), Defendants the State and the Board of Education are under a statutory mandate to classify NSC;

(b) a declaration that, pursuant to § 161.092(9) and 5 C.S.R. §20-100.105(3), NSC is to be classified as unaccredited until such time as NSC achieves one of the statuses of provisionally accredited, accredited, or accredited with distinction;

(c) for Plaintiffs' costs and attorneys' fees incurred herein; and

(d) for such other and further relief as the Court deems just and proper.

**COUNT II**  
**INJUNCTIVE RELIEF AGAINST ALL DEFENDANTS**

59. Plaintiffs incorporate Paragraphs 1-58 by reference into Count II as if fully set forth herein.

60. If the Court grants the declaratory relief Plaintiffs request in Count I, it will follow by necessity that § 167.131 RSMo applies to the Students.

61. The transfer requirements set forth in § 167.131 RSMo are in conflict with the Operating Policy attached as **Exhibit D**.

62. Therefore, the statutory requirements of § 167.131 RSMo should govern the transfer of the Students during the 2014-15 school year.

63. Pursuant to § 167.131 RSMo, accredited school districts are obligated to accept all students requesting transfer from an unaccredited district in the same or adjoining county.

64. The 2014-15 school year begins in August, 2014, and immediate court intervention is required to vindicate Plaintiffs' and the Students' rights under Missouri law.

65. A justiciable controversy exists between the Plaintiffs and the Defendants concerning the nature and extent of the legal obligations and rights created by and existing under § 167.131 RSMo, by virtue of the factual circumstances alleged in this Petition.

66. Plaintiffs lack an adequate remedy, as an alternative to this declaratory judgment action, to resolve the controversies described in this Petition, or to otherwise cause Defendants to fulfill their obligations pursuant to § 167.131 RSMo.

WHEREFORE, Plaintiffs request that this Court enter a judgment in their favor providing:

(a) temporary, preliminary, and permanent injunctive relief prohibiting Defendants

- from applying any portion of the Operating Policy to the Students to the extent that any such policy conflicts with the requirements of § 167.131 RSMo;
- (b) temporary, preliminary, and permanent injunctive relief prohibiting Defendant Receiving Districts from denying admission to any of the Students who request transfer from NSC under § 167.131 RSMo;
  - (c) temporary, preliminary, and permanent injunctive relief requiring Defendant NSC to pay the tuition costs of any of the Students transferring to any Receiving District during the 2014-15 school year;
  - (d) retention of jurisdiction by the Court over the parties until the Court's orders have been fully implemented;
  - (e) for Plaintiffs' costs and attorneys' fees incurred herein; and
  - (f) for such other and further relief as the Court deems just and proper.

**COUNT III**  
**DECLARATORY JUDGMENT AGAINST THE STATE OF MISSOURI,**  
**THE MISSOURI STATE BOARD OF EDUCATION, AND**  
**DESE FOR VIOLATION OF § 536.014 RSMO**

67. Plaintiffs incorporate paragraphs 1-51 by reference into Count III as if fully set forth herein.

68. Under Missouri law, a rule is “each agency statement of general applicability that implements, interprets, or prescribes law or policy . . . .” § 536.010(6) RSMo.

69. Also under Missouri law, a rule “includes the . . . repeal of an existing rule . . . .” § 536.010(6) RSMo.

70. In waiving the accreditation statuses and requirements of 5 C.S.R. §20-100.105(3) for the newly-constituted NSC, the State, the Board of Education, and DESE engaged in repeal of 5 C.S.R. §20-100.105(3). Therefore, this action constitutes rule-making under § 536.010(6)

RSMo.

71. Further, in adopting and issuing the Operating Policy attached as **Exhibit D**, the State, the Board of Education, and DESE made statements of general applicability that implemented, interpreted, and prescribed law or policy regarding NSC and its pupil residents, as well as all school districts subject to § 167.131 RSMo as a result of NSC's lack of accreditation status. Therefore, these actions constitute rule-making under § 536.010(6) RSMo.

72. In waiving accreditation statuses as to NSC and issuing the Operating Policy, the State, the Board of Education, and DESE engaged in rule-making without following any of various relevant statutes governing rule-making. These statutes include, but are not limited to, § 536.014, other sections in Chapter 536, and § 161.092 RSMo.

73. The prejudicially short time frame for Plaintiffs and the Students to make their education determinations for the 2014-15 school year, after the State, the Board of Education, and DESE unlawfully enacted new rules in May and June, 2014, illustrates the types of problems that arise when the normal time frames for rule-making are not followed.

74. Plaintiffs and the Students are aggrieved by the actions of the State, the Board of Education, and DESE purporting to give NSC no accreditation status, and issuing the Operating Policy that removes the Students from the school districts they are rightfully entitled to attend under § 167.131 RSMo. Accordingly, Plaintiffs and the Students have standing under § 536.053 RSMo to challenge the improper rule-making of these Defendants.

75. Both the waiver of 5 C.S.R. §20-100.105(3) and the issuance of the Operating Policy are invalid attempts at rule-making by the State, the Board of Education, and DESE, in violation of § 536.014 RSMO.

76. There is absence of statutory authority for the "rules" enacted by the State of

Missouri, the Board of Education, and DESE; these rules are in conflict with state law, and they are so arbitrary and capricious as to create substantial inequity and to be unreasonably burdensome on the persons affected.

77. Under § 536.087 RSMO, Plaintiffs are entitled to their reasonable fees and expenses incurred by Plaintiffs in this civil action.

WHEREFORE, Plaintiffs request that this Court enter a judgment in their favor providing:

- (a) a declaration that, as a repeal of an existing rule, the State's, the Board of Education's, and DESE's attempt to give NSC an accreditation status other than those found in 5 C.S.R. §20-100.105(3) is invalid as an agency rule-making that did not follow the procedures prescribed in Chapter 536 and/or § 161.092 RSMo;
- (b) a declaration that without going through formal rule-making, the only accreditation statuses that the Board of Education may give NSC is one of the statuses found in 5 C.S.R. §20-100.105(3);
- (c) a declaration that the only status found in 5 C.S.R. §20-100.105(3) currently applicable to NSC is that of unaccredited;
- (d) a declaration that, as the enactment of new rules, the State's, the Board of Education's, and DESE's issuance of the Operating Policy is invalid as an agency rule-making that did not follow the procedures prescribed in Chapter 536 and/or §161.092 RSMo;
- (e) for Plaintiffs' costs and attorneys' fees incurred herein; and
- (f) for such other and further relief as the Court deems just and proper.



**COUNT IV**  
**INJUNCTIVE RELIEF AGAINST ALL DEFENDANTS**

78. Plaintiffs incorporate Paragraphs 1-51 and 67-77 by reference into Count IV as if fully set forth herein.

79. If the Court grants the declaratory relief Plaintiffs request in Count III, § 167.131 RSMo will apply to the Students and the terms of the Operating Policy will not apply to NSC, the Students, or the Receiving Districts.

80. Pursuant to § 167.131 RSMo, accredited school districts are obligated to accept all students requesting transfer from an unaccredited district in the same or adjoining county.

81. The 2014-15 school year begins in August, 2014, and immediate court intervention is required to vindicate Plaintiffs' and the Students' rights under Missouri law.

82. A justiciable controversy exists between the Plaintiffs and the Defendants concerning the nature and extent of the legal obligations and rights created by and existing under § 167.131 RSMo, by virtue of the factual circumstances alleged in this Petition.

83. Plaintiffs lack an adequate remedy, as an alternative to this declaratory judgment action, to resolve the controversies described in this Petition, or to otherwise cause Defendants to fulfill their obligations pursuant to § 167.131 RSMo.

84. Under § 536.087 RSMO, Plaintiffs are entitled to their reasonable fees and expenses incurred by Plaintiffs in this civil action.

WHEREFORE, Plaintiffs request that this Court enter a judgment in their favor providing:

- (a) temporary, preliminary, and permanent injunctive relief prohibiting Defendants from applying any portion of the Operating Policy to the Students to the extent that any such policy conflicts with the requirements of § 167.131 RSMo;

- (b) temporary, preliminary, and permanent injunctive relief prohibiting Defendant Receiving Districts from denying admission to any of the Students who request transfer from NSC under § 167.131 RSMo;
- (c) temporary, preliminary, and permanent injunctive relief requiring Defendant NSC to pay the tuition costs of any of the Students transferring to any Receiving District during the 2014-15 school year;
- (d) retention of jurisdiction by the Court over the parties until the Court's orders have been fully implemented;
- (e) for Plaintiffs' costs and attorneys' fees incurred herein; and
- (f) for such other and further relief as the Court deems just and proper.

**COUNT V**  
**DECLARATORY JUDGMENT AGAINST ALL DEFENDANTS**

85. Plaintiffs incorporate Paragraphs 1-51 by reference into Count V as if fully set forth herein.

86. Even if the Court denies the declaratory relief requested in Counts I or III above, § 167.131 RSMo still applies and controls the actions of Defendants in this matter.

87. By the plain terms of § 167.131.1 RSMo, the transfer requirements of that statute apply to “each district in this state that does not maintain an accredited school.”

88. By virtue of its actions designating NSC as a “state oversight district,” see Exhibit B, the Board of Education acknowledges that NSC is a “district in this state.”

89. By virtue of its actions giving NSC no accreditation status, the Board of Education acknowledges that NSC “does not maintain an accredited school.”

90. As a district in this state that does not maintain an accredited school, NSC is subject to the requirements of § 167.131 RSMo.

WHEREFORE, Plaintiffs request that this Court enter a judgment in their favor providing:

- (a) a declaration that, as a district that does not maintain an accredited school, NSC is subject to the requirements of § 167.131 RSMo;
- (b) a declaration that all Defendants are subject to the requirements of §167.131 RSMo regarding the Students, who are all pupil residents in NSC;
- (c) a declaration that the Operating Policy is null and void as to the Students to the extent it conflicts with § 167.131 RSMo;
- (d) for Plaintiffs' costs and attorneys' fees incurred herein; and
- (e) for such other and further relief as the Court deems just and proper.

**COUNT VI**  
**INJUNCTIVE RELIEF AGAINST ALL DEFENDANTS**

91. Plaintiffs incorporate Paragraphs 1-51 and 85-90 by reference into Count VI as if fully set forth herein.

92. If the Court grants the declaratory relief Plaintiffs request in Count V, § 167.131 RSMo will apply to the Students.

93. The transfer requirements set forth in § 167.131 RSMo are in conflict with the Operating Policy attached as **Exhibit D**.

94. Therefore, the statutory requirements of § 167.131 RSMo should govern the transfer of the Students during the 2014-15 school year.

95. Pursuant to § 167.131 RSMo, accredited school districts are obligated to accept all students requesting transfer from an unaccredited district in the same or adjoining county.

96. The 2014-15 school year begins in August, 2014, and immediate court intervention is required to vindicate Plaintiffs' and the Students' rights under Missouri law.

97. A justiciable controversy exists between the Plaintiffs and the Defendants concerning the nature and extent of the legal obligations and rights created by and existing under § 167.131 RSMo, by virtue of the factual circumstances alleged in this Petition.

98. Plaintiffs lack an adequate remedy, as an alternative to this declaratory judgment action, to resolve the controversies described in this Petition, or to otherwise cause Defendants to fulfill their obligations pursuant to § 167.131 RSMo.

WHEREFORE, Plaintiffs request that this Court enter a judgment in their favor providing:

- (a) temporary, preliminary, and permanent injunctive relief prohibiting Defendants from applying any portion of the Operating Policy to the Students to the extent that any such policy conflicts with the requirements of § 167.131 RSMo;
- (b) temporary, preliminary, and permanent injunctive relief prohibiting Defendant Receiving Districts from denying admission to any of the Students who request transfer from NSC under § 167.131 RSMo;
- (c) temporary, preliminary, and permanent injunctive relief requiring Defendant NSC to pay the tuition costs of any of the Students transferring to any Receiving District during the 2014-15 school year;
- (d) retention of jurisdiction by the Court over the parties until the Court's orders have been fully implemented;

- (e) for Plaintiffs' costs and attorneys' fees incurred herein; and
- (f) for such other and further relief as the Court deems just and proper.

Respectfully submitted,

THE SCHINDLER LAW FIRM, P.C.,

---

Joshua M. Schindler, #37891  
Richard L. Gray, #45732  
141 North Meramec, Suite 201  
Saint Louis, MO 63105  
Tel: (314) 862-1411  
Fax: (314) 862-1701  
[josh@schindlerlawfirm.com](mailto:josh@schindlerlawfirm.com)

*Attorneys for Plaintiffs*

# **EXHIBIT A**

# Missouri State Board of Education

P.O. Box 480, Jefferson City, Missouri 65102-0480 • Phone 573-751-3563 • Fax 573-751-1179

## MINUTES OF MEETING OF THE STATE BOARD OF EDUCATION May 19-20, 2014

The Missouri State Board of Education met in Jefferson City on May 19, 2014, and in Columbia on May 20, 2014.

Present: Peter Herschend, Branson, President  
Mike Jones, St. Louis, Vice President  
Joe Driskill, Jefferson City, Member  
Vic Lenz, St. Louis, Member  
John Martin, Kansas City, Member  
Charlie Shields, St. Joseph, Member  
Russell Still, Columbia, Member  
Chris L. Nicastro, Commissioner of Education  
Robin Barbour, Executive Assistant  
Deputy Commissioners Ron Lankford and Margie Vandeven  
Assistant Commissioners Stephen Barr, Paul Katnik, Sharon  
Helwig, Dennis Cooper, and Leigh Ann Grant Engle; Mark  
Van Zandt, General Counsel; Robin Coffman, Chief of Staff;  
and Sarah Potter, Communications Coordinator

No. 12300  
Call to Order  
(05/19/2014)

President Peter Herschend called the meeting of the Missouri State Board of Education to order at 1:41 p.m. on Monday, May 19, 2014. The meeting on Monday, May 19 was held in the State Board of Education meeting room on the first floor of the Jefferson State Office Building in Jefferson City, Missouri; and the meeting on Tuesday, May 20 was held at the Stoney Creek Hotel and Conference Center in Salon C in Columbia, Missouri.

No. 12301  
Closed Session

President Herschend announced the Board would not discuss any open session items until Tuesday. Per the closed session motion made at the April 15, 2014 State Board of Education meeting, the Board went into closed session.

No. 12312  
Consideration  
of  
Recommendation for the  
Normandy  
School District

It was moved by Mr. Jones, seconded by Dr. Martin, to lapse the Normandy School District effective June 30, 2014, with direct oversight by the State Board of Education effective immediately. All existing contracts with personnel and others will be terminated effective June 30, 2014. It was further moved to create the *Normandy Schools Collaborative* as a new local education agency encompassing the Normandy School District footprint effective July 1, 2014. It was further moved that a Joint Executive Governing Board (JEGB) be appointed to govern the *Collaborative* effective July 1, 2014. The JEGB will consist of 5-7 individuals appointed by the State Board of Education. It was further moved to adopt the following resolution :

WHEREAS, Article IX, Section 1(a) of the Constitution of the State of Missouri requires that a free public school system provide for the gratuitous instruction of all persons in this state under the age of twenty-one years; and

WHEREAS, Article IX Section 2(a) vests the supervision of instruction in the public schools in the State Board of Education; and

WHEREAS, Missouri Law, Section 162.081 (RSMo, 2013 Cum Supp), provides that, upon a district's initial classification or reclassification as unaccredited, that the State Board of Education shall review the governance of the district to establish the conditions under which the existing school board shall continue to govern; or determine the date the district shall lapse and determine an alternative governing structure for the district; and

WHEREAS, the State Board of Education on September 18, 2012, classified the Normandy School District as unaccredited, with the classification effective January 1, 2013; and

WHEREAS, the Normandy Transition Task Force was appointed by the Commissioner of Education, with findings received by the Department of Elementary and Secondary Education on May 12, 2014; and



No. 12312  
Consideration  
of  
Recommendation for the  
Normandy  
School District  
(cont.)  
(05/20/2014)

WHEREAS, the Normandy Transition Task Force made recommendations relating to an alternative governance structure within the existing boundaries of the Normandy School District, with the goal of providing children quality neighborhood schools.

NOW, THEREFORE, we, the members of the State Board of Education, by virtue of the powers vested in this Board by the Missouri Constitution and laws of the State of Missouri, do hereby lapse the Normandy School District effective June 30, 2014, with contracts with the Normandy School District voided with district lapse, and hereby establish the Normandy Schools Collaborative effective July 1, 2014, to be governed as follows:

- 1) That, pursuant to Section 162.081.3 (2)(b) a Joint Executive Governing Board shall be appointed by the State Board of Education.
- 2) That from the members of the Joint Executive Governing Board, the State Board of Education shall appoint a chairman to preside over the Joint Executive Governing Board.
- 3) That the Joint Executive Governing Board shall be authorized to retain and exercise all authority granted to the Normandy Board of Education and to take actions necessary for the operation of the Normandy Schools Collaborative subject to the advice and consent of the State Board of Education.

A roll call vote was called.

Vote: Yes Driskill, Herschend, Jones, Lenz, Martin, Shields,  
Still

Motion carried. (Exhibit 8)

# **EXHIBIT B**

## MISSOURI STATE BOARD OF EDUCATION AGENDA ITEM:

June 2014

CONSIDERATION OF CLASSIFICATION DETERMINATION FOR THE  
*NORMANDY SCHOOLS COLLABORATIVE*

## STATUTORY AUTHORITY:

Sections 161.092, 161.210 and 162.081,  
RSMoConsent  
ItemAction  
ItemReport  
Item

## DEPARTMENT GOAL NO. 1:

All Missouri students will graduate college and career ready.

## SUMMARY:

Creation of the *Normandy Schools Collaborative* represents an unprecedented step to break the cycle of low achievement and fundamentally change the way Normandy schools will function. A key issue that must be addressed is the accreditation status of the *Normandy Schools Collaborative* during this period of direct state oversight. Current standards in the Missouri School Improvement Program (MSIP) do not address the state intervention and alternative governance authorized under Mo. Rev. Stat. § 162.081.3 (2)(b).

Therefore, it is recommended that the State Board of Education grant a waiver under Mo. Rev. Stat. § 161.210, giving the *Normandy Schools Collaborative* a new school status as a state oversight district. This classification shall be granted based upon the following actions by the Normandy Joint Executive Governing Board (Normandy JEGB):

1. The Normandy JEGB shall, within ninety (90) days of appointment, implement a school improvement plan as approved by the Department of Elementary and Secondary Education (DESE) which shall include, but not be limited to:
  - a. A rigorous and relevant instructional program,
  - b. Ongoing, high-quality, job-embedded professional development,
  - c. Increased instructional time,
  - d. Social-emotional and community-oriented services and supports, and
  - e. Use of data to inform and differentiate instruction.
2. Implement the directives of DESE to facilitate continuous oversight of the operations of the *Normandy Schools Collaborative*.
3. Provide quarterly reports to the State Board of Education on the *Normandy Schools Collaborative* status.

The waiver status shall be reviewed annually by the State Board of Education and shall be renewed based upon the benchmarks established by DESE as necessary to return the *Normandy*

*Schools Collaborative* to full accreditation. Subject to annual review and renewal, the waiver may remain in place for up to three (3) school years, at which time the State Board of Education will complete a comprehensive review of the district governance structure.

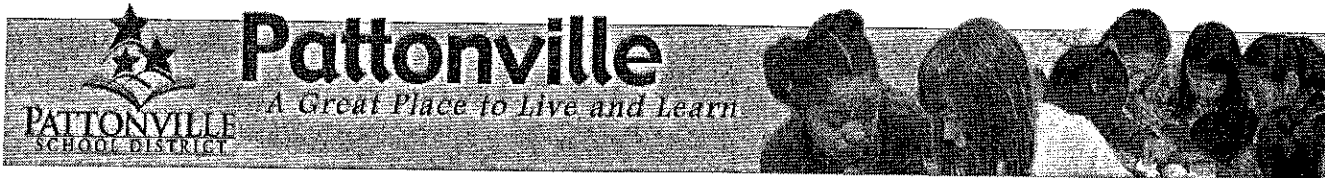
**PRESENTER:**

Mark Allan Van Zandt, General Counsel, will lead the discussion of this agenda item.

**RECOMMENDATION:**

The Department recommends that the State Board of Education grant a waiver under Mo. Rev. Stat. § 161.210, giving the *Normandy Schools Collaborative* a new school status as a state oversight district subject to requirements outlined herein.

# **EXHIBIT C**



**Update on transfer program with Normandy**  
 Tuesday, July 1, 2014

Following the Missouri State Board of Education's recent action to lapse the Normandy School District and create the new Normandy Schools Collaborative, which will not be an unaccredited school district, the Pattonville School District has made the difficult decision to uphold its existing policy (JECB - Admission of Non-Resident Students). In accordance with this policy, students who previously attended Pattonville from Normandy under the state's transfer law are no longer eligible to enroll in Pattonville.

Because the Normandy Schools Collaborative will operate under a new governing board and without an accreditation status, the Missouri Department of Elementary and Secondary Education (DESE) has indicated that state laws governing the transfer program no longer apply to Normandy and Normandy students are no longer eligible to transfer. DESE will however allow Normandy students who transferred in 2013-2014 to remain in the schools they transferred to, at the discretion of the receiving districts, only if the receiving district will accept the reduced tuition rate of about \$7,200 per student. This is roughly half of what Pattonville residents spend per pupil to educate Pattonville students (88% of Pattonville revenues come from local taxes).

We understand this is disappointing for the 23 students and their families who may have hoped to return to Pattonville for the coming school year; however, we have always strongly believed that in order for neighborhood schools to improve, become strong, and provide the quality public education local communities deserve, their resources must remain in their home district.

We continue to believe rebuilding struggling schools and communities is the best solution, as we did in 2007 when we decided to no longer accept non-resident, tuition-paying students except for a few existing programs. This was done in response to the St. Louis Public Schools becoming unaccredited and in recognition that a state law existed that could potentially devastate the finances of the St. Louis Public Schools. Our decision was to stand in support of the students of St. Louis Public Schools by not taking critical resources away from their schools.

Over the past year, Pattonville has worked with state legislators and education leaders across the state to seek solutions to help unaccredited districts improve and recover their accreditation status. We have talked with DESE officials and are encouraged that the planning, professional development and data-driven processes they are putting in place will help Normandy make immediate improvements and enable students returning to Normandy to have a quality education. At the same time, Pattonville will continue to do what it can to assist our colleagues in Normandy and other struggling districts, and we will work with our Normandy families to ensure a smooth transition back to their neighborhood schools.

For generations public schools have been synonymous with community. Public education ensures ALL children are educated. Not one child is excluded. Public schools work in Pattonville because our community recognizes the importance of helping our children grow up to be kind, responsible and academically prepared citizens. We believe this can and should happen in all communities.

The letter sent to parents of students from Normandy can be found at the following link:  
<http://www.psd3.org/NewsInfo/pdf/NormandyParentLetter14.pdf>

Need to Know...	Search
Pattonville News Desk	
Pattonville Calendars	Search
Enrolling In Pattonville	Web Tools
Resources for Parents	Parents & Students
Emergency School Closings	Staff
Get to Know...	Community
Board of Education	New Residents/Realtors
Superintendent's Message	Alumni
Our Schools	Seasonal Links
Our Community	Summer Learning Brochure
About Pattonville	Annual Report
Departments & Services	Active Kids
Support Organizations	Prop P
District Policies	Prop K/Legacy
Handbooks & Guides	Photo Galleries
Legal Notices	Awards
Attendance Boundaries	
Let Us Know...	
Employment	
District Directory	
Department Contacts	
Give us your Feedback	

Copyright 2009 Pattonville School District. Please send us your feedback.  
 11097 St. Charles Rock Road - St. Ann, MO 63074 - (314) 213-8500

# **EXHIBIT D**

**MISSOURI STATE BOARD OF EDUCATION AGENDA ITEM:**

**June 2014**

**CONSIDERATION OF OPERATING POLICY FOR TRANSFERS FROM THE  
NORMANDY SCHOOLS COLLABORATIVE**

**STATUTORY AUTHORITY:**

Sections 161.092 and 162.081, RSMo.

<input type="checkbox"/>	Consent Item	<input checked="" type="checkbox"/>	Action Item	<input type="checkbox"/>	Report Item
--------------------------	-----------------	-------------------------------------	----------------	--------------------------	----------------

**DEPARTMENT GOAL NO. 1:**

All Missouri students will graduate college and career ready.

**SUMMARY:**

On May 20, 2014, the State Board of Education determined that the only feasible way to maintain schools in the Normandy district was to lapse the Normandy School District effective June 30, 2014, with direct oversight by the State Board of Education effective immediately. The State Board also authorized the establishment of the *Normandy Schools Collaborative* to be governed by a Joint Executive Governing Board to provide leadership to the new local education agency, pursuant to Missouri law, Section 162.081, RSMo.

Staff will provide information regarding the "Operating Policy for Transfers from the *Normandy Schools Collaborative*" for review and approval by the State Board of Education.

**RECOMMENDATION:**

The Department recommends that the State Board of Education approve the Operating Policy for Transfers from the *Normandy Schools Collaborative* as presented.

**PRESENTER(S):**

Ron Lankford, Deputy Commissioner, Financial and Administrative Services will assist in the presentation and discussion of this agenda item.



*Operating Policy for Transfers from the Normandy Schools Collaborative*

In an effort to assure minimal disruption to the educational program of the students who transferred to other school districts for the 2013-14 school year, the Normandy Schools Collaborative will allow transfers to continue as follows:

1. Only students who attended the Normandy School District in the 2012-13 school year, and then transferred in for the 2013-14 school year are eligible to continue in the transfer program, and they are only eligible to continue to attend the same school district they attended in 2013-14. In an effort to accommodate families, 2014-15 incoming kindergarten students are eligible to transfer only if they had a sibling that was in the transfer program who is eligible to continue based on this criteria. In those cases, the kindergarten student is eligible to enroll in the same district as the sibling.

---

2. Any student who transferred from the Normandy School District to an accredited district in the same or adjoining county in the 2013-14 school year, but did not attend the Normandy School District for at least one semester in the 2012-13 school year shall no longer be eligible to transfer in the 2014-15 school year. First-time kindergarten students in the 2013-2014 school year who were residents of the Normandy School District, will be allowed to continue to transfer.
3. Any student who transferred from the Normandy School District to an accredited district in the same or adjoining county in the 2013-14 school year, but withdrew from that school district is no longer eligible to transfer.
4. The Normandy Schools Collaborative will calculate tuition to be paid to receiving districts as follows:
  - a. Multiply the average daily attendance of the transfer students to any receiving district by the amount of the state adequacy target used by the Department of Elementary and Secondary Education in calculating the current year formula apportionments under section 163.031;
  - b. Multiply the amount derived in calculation (a) by the dollar value modifier of the receiving district used in calculating the current year formula apportionment
  - c. Multiply the amount derived in calculation (b) by the percentage formula adjustment, if any, used by the department in calculating the current year formula apportionment; and
  - d. Add to the amount calculated in (c) the payment amount per-average daily attendance used in the prior year for distribution of the funds from the school district trust fund under section 163.087 multiplied by the average daily attendance of the transfer students attending the receiving district.
5. The Normandy Schools Collaborative will provide transportation in the 2014-15 school year to the school district to which transportation was provided in the 2013-14 school year.