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*VIA EMAIL AND U.S. MAIL*

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**RE: Management Audit Findings and Recommendation of State Management**

Dr. Pollio and Board Chair Porter:

Since February 14, 2017, the Jefferson County Public Schools (JCPS) has undergone a “management audit” pursuant to KRS 158.780, KRS 158.785 and 703 KAR 3:205. A management audit of JCPS was required when the data and information reviewed after a six month management review found the presence of critically ineffective or inefficient management within JCPS (**Attachment 1**). On March 14, 2017, JCPS Superintendent Donna Hargens responded in a 33 page letter (**Attachment 2**) indicating the management review findings did not “represent the present reality,” however Dr. Hargens stated that the district would “work proactively with KDE” and “trust the process...” A management audit was conducted to determine if “...there is a pattern of a significant lack of efficiency and effectiveness in the governance or administration of a school district” (KRS 158.785).

**OVERVIEW OF AUDIT PROCESS**

Over the past year, the audit team, which included more than 50 Kentucky Department of Education (KDE) staff or contractors, conducted more than 800 interviews of JCPS board

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members, staff, teachers, students and community members and a review of thousands of pages of documents related to the management and operation of JCPS. An on-site review of the district occurred April 18-28, 2017, as well as a site visit April 25-26, 2018. Also, a nearly year-long investigation and analysis of the governance and administration of JCPS has taken place. Finally, reports and findings by other governmental agencies at the state and federal level have also informed the audit.

During the management audit process, former Commissioner Stephen Pruitt became alarmed with some of the initial findings of the audit team. He determined that some issues directly affecting students and federal funding were in need of immediate corrective action. As a result, on September 20, 2017, he issued a letter to JCPS that required corrective actions in the areas of career and technical education, implementation of the federal Individuals with Disabilities Education Act (IDEA) and the use of restraint and seclusion (**Attachment 3**). On October 31, 2017, then interim superintendent Dr. Marty Pollio responded to these issues in writing (**Attachment 4**) and identified several strategies to “leverage improvement districtwide.” Since October 2017, with the support and guidance of KDE staff, JCPS has been implementing corrective action plans in these areas with fidelity. KDE has monitored the JCPS corrective actions through onsite monitoring visits (October 9, 2017, December 19, 2017, and February 16, 2018) and reviewing the status of deliverables through 30-60-90 day plans (**Attachments 5 and 6**).

The initial management review of JCPS included more than 30 items determined to be “significant deficiencies.” While JCPS contested some of those deficiencies (**Attachment 2**), the resulting management audit process dove more in-depth into the initial deficiencies cited by the management review and broadened the scope to focus on the following areas:

- Planning
- Operational Support: Food Services, Transportation, and Facilities
- Operational Support: Financial Management
- Operational Support: Personnel Administration
- Instructional Management
- Physical Restraint and Seclusion of Students
- Implementation of IDEA
- Career and Technical Education
- Implementation of teacher certification requirements
- Implementation of Head Start
- Implementation of internal investigations
- Personnel Administration

Attached to this letter are the supporting summary documents for the conclusions and my recommendation, including an executive summary (**Attachment 7**), the full audit report of findings (**Attachment 8**), a report of findings specifically addressing requirements of the IDEA

and the use of restraint and seclusion (**Attachment 9**), a report of the Office of Education Accountability (OEA) regarding JCPS hiring practices for positions requiring certification (**Attachment 10**), a report of the U.S. Department of Health and Human Services regarding the operation of Head Start in JCPS (**Attachment 11**), and a JCPS commissioned report regarding the quality of internal district investigations (**Attachment 12**).

Other documents included with this letter that reveal information that is of great concern but that I did not rely on to support my conclusions and recommendation, include a report detailing concerns with the validity of achievement scores on state standardized examinations in JCPS (**Attachment 13**). This report, while not used as direct evidence for the conclusions of the audit, identifies issues of concern that must be addressed by the district and KDE.

Additionally, the district's performance on state standardized examinations over many years, at the district-level and in particular schools is unconscionable. A table illustrating district performance on those examinations, highlighting the incredible continuing racial/ethnic and socioeconomic achievement gaps is included as **Attachment 14**.

Finally, an analysis of the JCPS collective bargaining agreement for certified employees is ongoing and will be provided to the JCPS board on its completion.

## **RECOMMENDATION OF STATE MANAGEMENT**

Based upon the audit findings, I have determined that the evidence **overwhelmingly supports the conclusion that there is a pattern of a significant lack of efficiency and effectiveness in the governance and administration of the JCPS. The evidence collected during the management review and audit establishes the following:**

- (a) An existence of a pattern of a significant lack of efficiency and effectiveness in the governance or administration of JCPS;**
- (b) The pattern of a significant lack of efficiency and effectiveness in the governance or administration of JCPS continues to exist; and**
- (c) State management is necessary to correct the inefficiencies and ineffectiveness within JCPS.**

All of the areas audited contain numerous findings, which when taken together, show a pattern of significant lack of efficiency and effectiveness within JCPS (**Attachments 7-12**). These findings are summarized as follows:

### *Planning*

The comprehensive audit included an on-site review, investigation and analysis of the governance and administration of the school district. During this process, it was determined that there is not a protocol in place to ensure proper training and alignment of roles and

responsibilities of the JCPS administration and board members. There is not a district-wide formalized plan in place that focuses on two-way communication including horizontal and vertical internal communication which is consistent across all processes and work groups to support organization-wide goals. At the time of the onsite review in April 2017, the boundaries of the roles and responsibilities of the superintendent and the roles and responsibilities of the board members to a level of providing understanding for leadership in efficient operations was unclear. The work at central office was not always aligned with the mission and vision of the district due to organizational structure and a lack of clear communication. Cabinet-level leaders did not always clearly communicate with mid-level managers. Therefore, central office operations were not connected to the work going on in schools. During my April 2018 visit to the district, I determined that newly appointed Superintendent Dr. Martin Pollio, in the 10 months he has served as interim superintendent and now superintendent, has led the board and the district toward addressing many of the organizational coherence, communications, and culture deficiencies found during the April 2017 onsite review. These steps are significant and I am both hopeful and optimistic about the future, but deficiencies in the organization remain. While the board recently passed a promising reorganization plan which should address some identified deficiencies, this remedy is in the very early stages of implementation, with positions in the new organizational structure not yet filled. Given the district's documented pattern of inefficiency, ineffectiveness, and organizational coherence, even with Dr. Pollio's incredibly positive steps, I am not yet assured that the district will remedy these deficiencies on its own. Presently, there continues to be insufficient evidence of a culture that holds people accountable for their responsibilities across the district. The identified deficiencies establish a pattern of a significant lack of effectiveness and efficiency in the governance and administration of the school district in the area of planning. State management is necessary to correct the inefficiencies and ineffectiveness.

### *Operational Support*

The audit process included an on-site review, investigation and analysis of the operations of the school district. The district cannot meet facility needs without additional funding. During the onsite review in April 2017, there was a clear lack of understanding among the members of the JCPS board regarding options to generate additional revenue. During my April 2018 visit, I determined that board members had greater awareness of regarding revenue options, but the district has not developed a plan to utilize current bonding capacity to address critical capital projects.

The district does not have a business continuity plan for facilities in the event one should become unusable. Likewise, the district does not maintain a business continuity plan for each bus compound and its fleet should that location become unusable. The district does not have a process in place to analyze bus routes (including double runs) for the most efficient and effective solution to the transportation challenges within JCPS.

The Student Assignment Plan presents challenges to transportation staff who manage the bus routing process. The guiding principles of the JCPS Student Assignment Plan are choice, quality, diversity, predictability, stability and equity. Based on interviews, choice and diversity are championed above the other principles. There is a significant impact on equity where the Student Assignment Plan serves some but not all students. The current plan has a distinct negative impact on the most vulnerable populations of JCPS students.

The JCPS board did not approve the 4% tax rate during the first year of the former Superintendent's tenure. According to the district's calculations, this negatively impacted the district's resources at the rate of \$16 million per year and will continue to do so for every year after that. Had it been adopted, a portion of this would have been restricted for facilities.

The JCPS board has not adopted an additional "nickel" tax to address aging facilities. Interviews during the April 2017 onsite review indicated an apparent lack of understanding about the current bonding potential of the district to address facility needs. The chief financial officer (CFO) reported that the district currently has a bonding potential of \$125 million of which only \$55 million is used. During my April 2018 visit, board members showed greater understanding of the nickel tax, with some board members expressing a willingness to consider it in the future; but there does not yet appear to be a plan for generating additional revenue to address some of the district's pressing capital needs.

The deficiencies identified establish a pattern of a significant lack of effectiveness and efficiency in the area of operational support in the district. State management is necessary to correct the inefficiencies and ineffectiveness.

### *Instructional Management*

There is inconsistency in the district's approach in working with school leaders to ensure equity and rigor through the use of the district curriculum. There is a lack of consistency across the district in data analysis to guide instruction. These inconsistencies, as well as other factors cited repeatedly in successive diagnostic reviews of the past eight years (e.g., teacher contract, lack of intentional district supports) have led to the large number of low-performing schools in the district. The identified deficiencies establish a pattern of a significant lack of effectiveness and efficiency in the area of instructional management. The results of that lack of effectiveness and efficiency is most clearly illustrated with the district's performance on state assessments, including incredibly large and in some cases widening socioeconomic and racial/ethnic achievement gaps. State management is necessary to correct the inefficiencies and ineffectiveness.

### *Physical Restraint and Seclusion of Students*

JCPS has a history of inconsistent implementation of appropriate board policies, data collection and reporting regarding the inappropriate use of physical restraint and seclusion. In addition,

there is a pattern of a significant lack of efficiency and effectiveness in the implementation and enforcement of 704 KAR 7:160, *The Use of Physical Restraint and Seclusion in Public Schools*. Since September 2017, the district has worked and continues to work closely with KDE to fulfill the requirements of its Corrective Action Plan, which resulted from the early findings of the audit. However, with the historically high rate of staff turnover in JCPS, new program administrators overseeing the use of physical restraint and seclusion, and continued development of new procedures and processes, it is in the best interest of the students and staff in JCPS for KDE to provide oversight throughout this time of corrective action and growth. It is absolutely critical that the assistance currently being provided by KDE through the Corrective Action Plan continues via formal state management to ensure that inefficiencies and ineffectiveness are corrected systematically.

#### *Implementation of IDEA*

Just as the KDE has general supervision responsibility under the IDEA to ensure all school districts within the state comply with the IDEA, JCPS has the responsibility to require its schools to fulfil the requirements of the IDEA. Over the years, several evidence-based professional learning activities have been provided across JCPS; however, the implementation, support and evaluation of such practices is ineffective or nonexistent. During the management audit, KDE's Division of Learning Services substantiated findings of noncompliance under the IDEA in the following areas:

- Collection and analysis of student data
- Significant disproportionality
- Positive Behavioral Interventions and Supports (PBIS)
- Continuum of educational settings
- Disciplinary procedures
- Admissions and Release Committee process
- Child Find
- Supplemental aids and supports, related services and program modifications/supports for school personnel

Additionally, the KDE chooses to use a significant portion of its State Set-Aside funds allocated under Part B of the IDEA to fund a Special Education Division (co-op) in each of state's regional educational cooperatives. While funding for these special education divisions is typically based on the inclusion of multiple school districts within the regional educational cooperative, the KDE determined the needs of Jefferson County to be so unique given its size and demographics, it was not reasonable to include it with other districts in a regional network. However, because IDEA funding requirements set limitations around the use of these funds for individual districts, KDE included the Kentucky School for the Blind (KSB) in the Jefferson County special education cooperative due to its close proximity, being located within the district. Due to the co-mingling of staff and funding streams, it is difficult for the Jefferson County special education cooperative to provide effective leadership and specialized services to assist the district with meeting the full

educational opportunity for all children with disabilities, aged 3 to 21. Without being able to determine how cooperative funds are being used in Jefferson County or what services are being provided to the district, the cooperative is not fulfilling the requirements of its Proposal for *Kentucky Regional Educational Cooperatives* to receive federal funds under *Part B of the IDEA*.

These issues are not new to the district. During the 2013-14 school year, JCPS received extensive training in PBIS because of an IDEA State Performance Plan Indicator 4B Corrective Action Plan (CAP). The CAP was a result of multi-year violations of federal law, prohibiting significant discrepancy by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with Individual Education Programs (IEPs). Since the release of the CAP, the number of suspensions in JCPS increased and there is no evidence to indicate JCPS continued ongoing training and coaching in this area. In January, 2018 JCPS again received notification of noncompliance for Indicator 4B based on data collected during the 2015-16 school year. The cited violations included significant discrepancy due to district practices related to discipline, which do not comply with the IDEA in areas related to PBIS, conducting functional behavioral assessments, implementation of behavior intervention plans, and procedural safeguards including manifestation determination procedures. The district is under a CAP to remedy these areas of noncompliance.

Additionally, for six of the last seven school years (2011-12 through 2017-18), JCPS has been required to provide Coordinated Early Intervening Services (CEIS) due to significant disproportionality related to disciplinary removals of African American students with IEPs. Discipline problems have caused the district to violate the IDEA and forced millions of IDEA dollars to be set aside for CEIS since 2010; yet, central office administrators were unable to explain how CEIS funds were being used.

There is evidence to support the existence of a pattern of a significant lack of efficiency and effectiveness in the implementation of the IDEA; therefore, I believe JCPS is incapable of remedying these deficiencies without substantial and ongoing state intervention. It is critical that the intervention currently being provided by KDE through the Corrective Action Plan continues via formal state management to ensure that the inefficiencies and ineffectiveness are systematically corrected.

#### *Career and Technical Education*

There are inaccuracies in federal and state data reporting concerning Career and Technical Education. There are inaccuracies in the documentation of career pathways. School-level CTE staff are not identified and/or identified staff do not have the knowledge and/or authority to implement the CTE program with fidelity. These issues are not just ones of compliance, but also impact the ability of the district to continue to qualify for federal funds.

While the district is in the process of implementing a Corrective Action Plan in this area based on early audit findings, there is evidence to support the existence of a pattern of a significant lack of efficiency and effectiveness in the implementation of Career and Technical Education within JCPS. I believe JCPS will be unable to remedy these deficiencies without state intervention. It is critical that the intervention currently being provided by KDE through the Corrective Action Plan continues via formal state management to ensure that inefficiencies and ineffectiveness are systematically corrected.

#### *Implementation of teacher certification requirements*

On August 4, 2017, the Legislative Research Commission's Office of Education Accountability (OEA) issued a final investigative report (**Attachment 10**) finding that "Superintendent Hargens and her designees violated KRS 161.020 by permitting noncertified staff to supervise and instruct students in the district during the instructional day." The findings in the OEA report are particularly concerning because the district implemented an elaborate process to place non-certified "instructors" in positions requiring certification by the Kentucky Educational Professional Standards Board (EPSB). This process circumvented the legal process by which teachers in Kentucky public schools obtain licensure and certification to ensure that they are qualified to teach specific grade spans and subject areas, in addition to circumventing the EPSB ethics, licensure suspension and revocation processes. KRS 161.048 and EPSB regulations generously allow for licensure and certification for individuals in a field other than education and that have exceptional work experiences. Instead, it appears that JCPS implemented a process parallel to EPSB and the requirements to which all other school districts must adhere. In response to OEA, former Superintendent Hargens denied responsibility in that she did "not deal with schedules or location assignments of personnel."

While Superintendent Hargens is no longer with the district, OEA concluded that such deficiencies are systemic in the district, with practices predating Superintendent Hargens tenure. There is evidence to support the existence of a pattern of a significant lack of efficiency and effectiveness in the implementation of teacher certification and hiring requirements within JCPS. It is essential that state intervention is used to ensure systems and corrective actions have been implemented and are maintained to prevent future violations of Kentucky law and to ensure that all JCPS classes are led by appropriately certified personnel.

#### *Implementation of Head Start*

On August 24, 2017, the United States Department of Health and Human Services, Administration for Children and Families, Office of Head Start (HHS), issued findings regarding the operation of Head Start programs by JCPS (**Attachment 11**). The findings included summaries of more than 20 incidents that resulted in the following deficiency determinations:

The grantee did not ensure all staff abided by the program's standards of conduct refraining from maltreatment of or endangering the health and safety of children,



including at a minimum, staff did not engage in corporal punishment, use emotional or physical abuse, or humiliation; and employ methods of discipline that involved isolation, the use of food as punishment or reward, or the denial of basic needs. The grantee had 13 incident reports of staff not abiding by the standards of conduct from October 2016 through May 2017.

...

The grantee did not ensure children were not left alone or unsupervised while under the care of staff. Three incidents of children being left unsupervised were reported since January 18, 2017.

...

The grantee did not establish and maintain efficient and effective reporting systems that generate official reports for federal, state, and local authorities, as required by applicable law. Seven incidents of staff not abiding by the standards of conduct were reported to the regional office more than three days after the incidents occurred. All seven incidents were reported to licensing and other agencies as required.

There is evidence to support the existence of a pattern of a significant lack of efficiency and effectiveness in the implementation of Head Start programs within JCPS. The deficiencies cited by HHS are similar to issues raised in other areas of this audit, including planning, restraint and seclusion and IDEA. As a result, it is essential that state intervention is used to ensure systems and corrective actions are maintained to prevent future violations of federal law and to ensure that all children in the care of JCPS are educated in a safe and nurturing environment.

#### *Implementation of internal investigations*

During the audit, KDE was made aware of a JCPS commissioned report from October 2016 regarding the adequacy of internal JCPS investigations of physical restraints of students by the JCPS Office of Compliance and Investigations (OCI) (**Attachment 12**). This report was prepared by a Kentucky private investigation firm and addressed to counsel for JCPS. This report was made public on January 3, 2018 by the Kentucky Center for Investigative Reporting and is now in the public domain.

The investigator's findings greatly concern me. The investigative report states in part:

The review I conducted of over 35 OCI investigative reports depicts a consistent pattern of a multitude of deficiencies. In many instances these investigative defects materially affected the conclusion drawn by the investigator. Therefore, in some instances, JCPS was unable to take appropriate disciplinary action due to the poor investigative effort. (Emphasis in original.)

...

In some instances, OCI's inability to draw a proper conclusion resulted in no or inadequate disciplinary action taken against employees who engaged in various violations concerning the verbal and/or physical abuse of students.

...

It is unquestionable that JCPS needs to make major changes in the manner in which allegations concerning teachers abusing students are investigated and reported.

There is evidence to support the existence of a pattern of a significant lack of efficiency and effectiveness in the implementation of internal investigations within JCPS. The deficiencies cited by an outside investigator are similar to issues raised in other areas of this audit, including planning, restraint and seclusion, and IDEA. As a result, it is essential that state intervention is used to ensure systems are in place to thoroughly investigate inappropriate and illegal actions of staff interactions with students, and that the findings are used to discipline and remove staff where appropriate.

#### *Personnel Administration*

There is evidence to support the existence of a pattern of a significant lack of efficiency and effectiveness in ensuring school district staff are prepared to perform the required professional and staff responsibilities in an effective and efficient manner. That failure is most clearly manifested in a failure of the district to ensure that staff are appropriately trained in key safety areas, including but not limited to, restraint and seclusion, compliance with federal and state laws, and effective delivery of instruction. For example, interviews with senior district leadership staff revealed that a lack of time for staff professional development resulting from provisions of the JCTA contract is a significant barrier to the improvement and effectiveness of staff.

#### *Pattern of a significant lack of efficiency and effectiveness*

Finally, the evidence summarized above reveals a pattern in the district that perpetuates many of these issues and that systems needed to consistently address inefficiencies and ineffectiveness are either in their infancy or do not exist. The following statement contained in the audit report is an example of this pattern of inefficiency and ineffectiveness and is a cause for great concern in the state's largest school district:

Stakeholder interviews revealed limited evidence that the policies and procedures work together for the goals of the school district/student achievement. There is no formal process to analyze whether policies, procedures, programs and staffing allocations to support school needs are having an impact on the goals of school district/student achievement. (Attachment 8, page 33).

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Pursuant to KRS 158.780, KRS 158.785 and 703 KAR 3:205, as a result of the overwhelming evidence summarized in Attachments 7-12 and in the interest of protecting every child in every school in the district and ensuring that each child in the district has the opportunity to receive a high quality education, I recommend that the Kentucky Board of Education (KBE) declare JCPS a state-managed district.

## **OTHER ISSUES OF CONCERN**

Several additional concerns must be explored further with the district's leadership during state management.

### *Anomalies in state testing*

I am alarmed with preliminary findings, using statistical data from a national testing analytics company on subcontract with KDE, that JCPS is overrepresented with certain outliers in state testing results. Even considering the large size of JCPS, the district is heavily overrepresented for potential testing improprieties when compared with other districts. While representing about 12% of all K-PREP tests administered in Kentucky, since 2013, JCPS has accounted for 46% of the K-Prep grade-subject test groups (e.g., 3<sup>rd</sup> grade reading, 4<sup>th</sup> grade mathematics, etc.) identified for potential testing improprieties. The next four largest districts, combined, accounted for only 9% of identified grade-subject test groups. Not only is JCPS overrepresented, when testing anomalies are assigned a numerical value based on the probability a testing anomaly occurred naturally (i.e., the likelihood there was a testing impropriety), JCPS also is responsible for some of the highest ranked threats. On average, JCPS constituted 72% of the grade-subject test groups identified in the top ten most anomalous grade-subject test groups yearly since 2013 (**Attachment 13**).

As concluded in the memorandum provided (**Attachment 13**):

...for purposes of interpretation, the data presented to KDE indicates the natural occurrence of erasure anomalies on the K-PREP Reading and Math in JCPS is virtually impossible. The data indicates the security of the K-PREP test has been compromised, and there is exceptionally strong reason to believe that answers are being inappropriately changed, although by currently undetermined sources. The school and classroom level data in JCPS is comparable to that of some of the highest instances of cheating in the Atlanta Public Schools scandal, which resulted in the conviction of eleven teachers, testing coordinators, and administrators, for federal racketeering charges.

KDE will continue to rigorously investigate this issue during state management, and a KDE team will provide onsite monitoring to specifically selected schools during testing windows this year and in the future.

### *Bargained Contract*

Former KDE Commissioner Pruitt attempted over the past nine months to utilize the services of a legal expert to analyze the contract between JCPS and the Jefferson County Teachers Association (JCTA). KDE staff have reported that this review has been frustrated and delayed due to lack of qualified responses to the requests for proposals (RFPs) and now due to delays in the ability of the selected expert to contract with the Commonwealth. I will ensure that this review is completed.

The purpose of this review is to determine whether any systemic issues identified in the audit can be addressed by renegotiated provisions of future contracts with JCTA. The analysis will be used during state management to inform contract negotiations. It is essential that any future bargained contract reflect systemic changes that have begun or that will take place as a result of state management. Any bargained contract must enhance, not inhibit, the ability of the district to deliver quality educational services to all students; provide needed professional development to district staff; hold district staff accountable for illegal, unethical, or unprofessional behavior; and attract and retain high quality staff in struggling schools. These are all areas of concern with the JCTA contract noted by senior district staff during the audit.

### **STATUS OF CURRENT CORRECTIVE ACTIONS**

Since corrective action began in October 2017 as a result of early findings of the audit, Superintendent Pollio and his leadership team have fully engaged in the development of 30-60-90 day plans (**Attachment 6**) and have ensured that findings are being addressed and monitored over time. That work is about both legal compliance and building district-wide capacity and systems of support for students that can be sustained over time. The district also is showing leadership by seeking feedback from national experts. The recent Council of the Great City Schools organizational review of JCPS (March 2018) confirms many of the findings in this audit.

Under the leadership of Dr. Pollio, the district has shown willingness to engage KDE to advance student achievement in JCPS. With Dr. Pollio's leadership the board recently adopted a central office reorganization based on models from successful urban districts. He is now hiring to fill vacancies in the district's new organizational structure.

While areas of operational support have not been addressed in the Correction Action Plan, and there is a need for further action, the district shows progress in the area of facilities management. In March 2017, JCPS had approximately \$125,000,000 in bonding capacity, compared with \$284,450,000 in March 2018. This increase can be primarily attributed to additional School Facilities Construction Commission (SFCC) funds available to the district and the reduction in debt service payments. The KBE approved a district facility plan for JCPS in June 2017 that included new construction and a substantial number of renovations to existing facilities. To date in FY2017-18, KDE has received 41 projects from JCPS with anticipated expenditures of

\$65,500,000. This is increased activity by the district compared to prior fiscal years in the area of facilities.

I am both encouraged and optimistic about the direction of the district under Dr. Pollio's leadership. In a short period of time, he has demonstrated urgency and a willingness to engage KDE and other groups and resources to begin the process of improving the management, governance, and performance of the district. With that said, the findings of this audit clearly show a system with deep-seated organizational and culture challenges. No leader alone, and no leader in a short period of time, would be able to even begin to address the many very concerning problems identified in this audit. The current state of JCPS is not the fault of any one leader or group. Instead, under the leadership of many and over a long period of time, serious challenges emerged and in many cases were permitted to fester. The nature of the challenges in JCPS are such that transformation will require years of dedicated and consistent district leadership, significant intervention on the part of KDE, and making oftentimes difficult management and governance decisions that put the safety and well-being of children first, at all costs. To that end, I would be derelict in my responsibility as interim commissioner and chief state school officer if I made a decision about the results of this audit based on good faith, and not on the clear and consistent findings of the audit which reveal a district where the well-being of some children has often been neglected. As such, even with the progress JCPS has made over the last ten months, my recommendation to the KBE is that JCPS be declared a state managed district.

## **OVERVIEW OF STATE MANAGEMENT**

Pursuant to KRS 158.785 (7) and (8), the following actions are required to be implemented during state management:

(7) If the state board designates a district a "state managed district" under subsection (4) of this section, the following actions shall be required of the chief state school officer:

- (a) All administrative, operational, financial, personnel, and instructional aspects of the management of the school district formerly exercised by the local school board and the superintendent shall be exercised by the chief state school officer or his designee.
- (b) Any local school board member or the local superintendent may be removed from office by the Kentucky Board of Education pursuant to KRS 156.132.
- (c) Notwithstanding any statute to the contrary, after thirty (30) days after a district becomes a "state managed district" any appointment to an administrative position may be revoked by the chief state school officer and the individual employee may be reassigned to any duty for which that person is qualified. The chief state school officer shall provide to the reassigned employee written reasons for the reassignment. The individual shall not be dismissed from subsequent employment except as provided by KRS 156.132 and 161.790.

(d) The chief state school officer shall make the administrative appointments as necessary to exercise full and complete control of all aspects of the management of the district. The chief state school officer, through the appointments, may make any and all decisions previously made by the local school board and the local superintendent. The chief state school officer shall retain clear supervisory and monitoring powers over the operation and management of the district.

(8) A school district shall be designated as a "state managed district" until the Kentucky Board of Education determines that the pattern of ineffective and inefficient governance or administration and the specific deficiencies determined by the management audit have been corrected. Each year following the school year in which the designation of a "state managed district" was made, the chief state school officer shall report the status of the corrective action being taken to the Kentucky Board of Education. No local school district shall remain in the status of a "state managed district" longer than three (3) consecutive school years unless the Kentucky Board of Education extends the time after a complete review of a new management audit. Any judicial review of actions taken by the chief state school officer or the board under KRS 158.780 or this section shall be in accordance with the provisions for conducting judicial review of administrative hearings outlined in KRS Chapter 13B.

I give you my unqualified commitment to work collaboratively with the superintendent and local board chair during the state management period and thereafter. Ensuring that every child in every school in JCPS is protected and served well is my first priority. The findings of the audit make it clear that for some time many children in JCPS have neither been protected nor served well. I am confident that we can work together under the state management model to create and implement needed systems for compliance, monitoring, and continuous improvement; make needed systemic reforms in the district; and increase the district's capacity to self-monitor, self-regulate, and identify and support struggling school before state intervention is required.

To that end, during the period of state management, I do not intend to hire a state manager. I intend to delegate authority for the daily operation of the district to the district superintendent, Dr. Martin Pollio. I will require that Dr. Pollio meet weekly for monitoring purposes with Associate Commissioner Kelly Foster. As the district makes progress on implementing all aspects of the corrective plan with fidelity, monitoring touchpoints with Dr. Foster will become less frequent. However, if the district fails to make adequate progress on all aspects of the corrective action plan, I will require more intensive monitoring, and if needed, delegate some or all the authority for district operations to Dr. Foster or a state manager.

During the period of state management, I have no intention of removing elected members of the local board of education. I will ask that the local board continue to meet and function in an advisory capacity to Dr. Pollio and to me.

Pursuant to KRS 158.785, I will make a first formal report to the Kentucky Board of Education on the district's progress under state management following the 2018-19 academic year, and

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provided JCPS has worked collaboratively with KDE and is implementing all aspects of the corrective action plan with fidelity, I will recommend to the Kentucky Board of Education that the district exit state management and be declared "state assisted." Pursuant to 703 KAR 3:205, the district would then remain a state assisted district until the chief state school officer recommends and the Kentucky Board of Education determines that sufficient progress has been made.

A KDE cross-agency team, under the guidance of Dr. Foster, will assist the district to develop and implement a plan to correct deficiencies found in the management audit. One individual will be assigned to specifically focus upon governance, structure and systems. A second individual will be assigned to work with the most struggling schools in JCPS. Additional support persons will be utilized as needed.

Pursuant to 703 KAR 3:205, the plan is subject to the approval of the KBE. KDE shall monitor the implementation of the plan to improve deficiencies in the following areas:

- Planning;
- Operational Support;
- Instructional Management;
- Physical Restraint and Seclusion;
- IDEA;
- Career and Technical Education;
- Teacher Certification Requirements;
- Head Start;
- Personnel Administration; and
- Internal Investigations.

KDE staff will assist the district in understanding the root cause of each deficiency, and identifying the strategies and/or professional development needed to develop a systematic approach to address each deficiency.

## **STATEMENT OF APPEAL RIGHTS**

By copy of this letter, I will file the recommendation of state management with the KBE. Pursuant to KRS 158.780, KRS 158.785 and 703 KAR 3:205, the Jefferson County Board of Education has the right to a hearing on the matter before the KBE. The hearing procedures established in KRS Chapter 13B apply to this hearing. The hearing will be open to the public. A hearing officer from the Office of Attorney General shall coordinate the hearing schedule and preside over the hearing for purposes of ruling on procedural issues. However, at least a quorum of the KBE will sit for the hearing as "agency head" and will vote "en banc" to approve or not

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Diane Porter  
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approve the recommendation of state management. The hearing officer will prepare a final order based upon the deliberation and conclusions of a majority of the KBE.

In the alternative and pursuant to 703 KAR 3:205 Section 3(4), the Jefferson County Board of Education may choose to agree with the recommendation of state management and waive the right to participate in the hearing before the KBE. In that case, I will place the matter before the KBE at a special or regular meeting, and the KBE will vote to approve or not approve the recommendation of state management. A final order will then be issued based upon the conclusion of a majority of the KBE.

Please use the attached form to designate whether a hearing is requested or if the district is waiving a formal hearing of this matter. A response is requested on or before May 30, 2018. After receipt of the decision of the local board, a scheduling order will be issued for the hearing or for the date of review by the KBE if the hearing is waived.

I look forward to working together to ensure that every child in every JCPS school has the opportunity to receive a high quality education in a safe and nurturing school environment.

Respectfully,



Wayne D. Lewis, Jr., Ph.D.  
Interim Commissioner of Education  
Commonwealth of Kentucky

Enclosures

Cc: Members of the Jefferson County Board of Education  
Members of the Kentucky Board of Education  
KDE Planning Committee  
Mayor Greg Fischer