



MEMO

DATE: June 1, 2023
TO: Charter Authorizer
FROM: ADE Legal Services Staff
SUBJECT: Desegregation Analysis of Renewal Open Enrollment Charter Application for Premier High School of Arkansas

I. INTRODUCTION

Premier High Schools of Arkansas submitted an amendment request regarding their current open-enrollment public charter school, Premier High Schools of Arkansas. The charter has campuses within the boundaries of the Little Rock School District, Fort Smith School District, and the Texarkana School District. The charter school provides instruction to students in grades nine through twelve (9-12). The charter school is requesting to increase its enrollment cap from 850 to 950 students.

II. STATUTORY REQUIREMENTS

Ark. Code Ann. § 6-23-106(a) requires the applicants for a charter school, the board of directors of the school district in which a proposed charter school would be located, and the charter authorizer to “carefully review the potential impact of an application for a charter school on the efforts of a public school district or public school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.” Ark. Code Ann. § 6-23-106(b) requires the charter authorizer to “attempt to measure the likely impact of a proposed public charter school on the efforts of public school districts to achieve and maintain a unitary system.” Ark. Code Ann. § 6-23-106(c) states that the authorizer “shall not approve any public charter school under this chapter or any other act or any combination of acts that hampers, delays, or in any manner negatively affects the desegregation efforts of a public school district or public school districts in this state.” This analysis is provided to inform the decision-making of the charter authorizer with regard to the effect, if any, of the proposed public charter school upon the desegregation efforts of a public school district.

III. INFORMATION SUBMITTED BY THE APPLICANT AND THE AFFECTED SCHOOL DISTRICTS

A desegregation analysis submitted by the charter school is attached as Exhibit A. To date, no desegregation-related opposition to the charter amendment request has been received.

IV. ANALYSIS FROM THE DEPARTMENT

Enrollment, as assessed on June 1, 2023, for the traditional public school districts and open-enrollment charter schools in Pulaski, Miller, and Sebastian counties are attached as Exhibit B.

“Desegregation” is the process by which a school district eliminates, to the extent practicable, the lingering negative effects or “vestiges” of prior *de jure* (caused by official action) racial discrimination. The ADE is aware of desegregation orders affecting the Lafayette County School District, *Turner et al. v. Lewisville School District No. 1*, Case No. 92-4040, U.S. Dist. Ct., W.D. Ark., and the Hope School District, *Davis et al. v. Franks*, Case No. 4:88-cv-4082, U.S. Dist. Ct. W.D. Ark. The goal of a desegregation case regarding assignment of students to schools is to “achieve a system of determining admission to the public schools on a non-racial basis.” *Pasadena City Board of Education v. Spangler*, 427 U.S. 424, 435 (1976) (quoting *Brown v. Board of Education*, 349 U.S. 294, 300-301 (1955)).

Because Premier High Schools of Arkansas will potentially draw students from the Lafayette County School District and Hope School District, the authorizer must ensure that any act it approves does not hamper, delay, or in any manner negatively affect the desegregation efforts of the Watson Chapel School District. As the Supreme Court noted in *Missouri v. Jenkins*, 515 U.S. 70, 115 (1995):

[I]n order to find unconstitutional segregation, we require that plaintiffs “prove all of the essential elements of de jure segregation -- that is, stated simply, a current condition of segregation resulting from intentional state action directed specifically to the [allegedly segregated] schools.” *Keyes v. School Dist. No. 1*, 413 U.S. 189, 205-206 (1973) (emphasis added). “[T]he differentiating factor between de jure segregation and so-called de facto segregation . . . is purpose or intent to segregate.” *Id.*, at 208 (emphasis in original).

The Lafayette County School District and Hope School District both participate in school choice. Lafayette County School District is actively working towards being declared unitary and ending its federal oversight. The Hope School District is also working toward being declared unitary and has started the process of implementing a magnet school program to achieve this purpose.

As noted above, the Lafayette County and Hope School Districts remain under federal court supervision. Therefore, the authorizer should consider whether granting the renewal application will negatively affect Lafayette County School District’s or Hope School District’s efforts to achieve full unitary status.

No desegregation-related opposition was received from any of the affected school districts.

V. CONCLUSION

ADE has no reason to conclude, from data currently available, that approval of this renewal is motivated by an impermissible intent to segregate schools, or that approval would hamper, delay, or negatively affect the desegregation efforts of the affected school district.

Desegregation Analysis

Premier High Schools of Arkansas
Desegregation Analysis (Fort Smith and Texarkana Campuses)

I. Introduction

Premier High Schools of Arkansas (Premier) is seeking an amendment to increase its system-wide enrollment cap for its Premier High Schools of Arkansas charter (which covers Premier High School campuses in Fort Smith, Little Rock and Texarkana) from 850 to 950 students. This desegregation analysis covers the Fort Smith and Texarkana campuses.

II. General Analysis

Premier, in this analysis, has carefully reviewed the potential impact that its enrollment cap increase would have upon the efforts of the Fort Smith (FSSD) and Texarkana (TSD) School Districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools. In conducting its review, Premier has found that neither the FSSD nor TSD are under any court orders concerning their desegregation obligations, and are therefore unitary in all respects of their school operations. Therefore, the small enrollment cap increase sought by Premier cannot be said to have a negative impact on the FSSD and TSD's ability to comply with their statutory obligations to create and maintain a unitary system of desegregated public schools.

III. Fort Smith Campus Student Information

According to the latest third-quarter student enrollment information as maintained in the ADE Data Center, the FSSD had a student population of 13,818 students, of whom 38.91% were White; 34.88% were Hispanic, and 10.51% were Black. Premier Fort Smith's current student population is 65 students, of whom 53.85% are White; 21.54% are Hispanic, and 15.38% are Black.

IV. Texarkana Campus Student Information

According to the latest third-quarter student enrollment information as maintained in the ADE Data Center, the TSD had a student population of 3,820 students, of whom 54.82% were Black; 34.12% were White, and 5.52% were Hispanic. Premier Texarkana's current student population is 46 students, of whom 50% are White; 43.48% are Black, and 6.52% are Hispanic.

V. Conclusion

In conclusion, Premier submits that upon the basis of its review pursuant to Ark. Code Ann. §6-23-106, no statutory or other impediments concerning the operation of desegregated public schools prohibit the State's charter school authorizer from granting its amendment request to increase its system-wide enrollment cap from 850 to 950 students.

Premier High Schools of Arkansas Desegregation Analysis (Little Rock Campus)

Premier High Schools of Arkansas (Premier) is seeking an amendment to its open-enrollment public school charter for an enrollment cap increase from 850 to 950 students, with the enrollment cap applying to each of three (3) covered campuses (Fort Smith, Little Rock and Texarkana) combined. This desegregation analysis will only cover the Premier Little Rock campus. Premier's Little Rock campus is located within the boundaries of the Little Rock School District and, as an open-enrollment public charter school unconfined by district boundaries, expects to continue to obtain most of its students from within the boundaries of the Little Rock (LRSD), North Little Rock (NLRSD), Pulaski County (PCSSD) and Jacksonville-North Pulaski (JNPSD) School Districts.

I. The Status of Pulaski County Desegregation Litigation

Premier is providing this desegregation analysis in accordance with Ark. Code Ann. §6-23-106 to review the potential impact that its proposed enrollment cap increase would have upon the efforts of all four (4) of the Pulaski County school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools. In conducting its review, Premier has substantiated that the LRSD and the NLRSD have been declared unitary in all respects of their school operations. The Pulaski County desegregation litigation was first filed in 1982. *Little Rock School District, et al v. Pulaski County Special School District, et al.*, Case No. 4:82:cv-00866-DPM. In 1989, the parties entered into a settlement agreement (the "1989 Settlement Agreement") under which the Arkansas Department of Education, the then-three (3) Pulaski County school districts, and the intervenors agreed to the terms of state funding for desegregation obligations.

LRSD successfully completed its desegregation efforts in 2007 and was declared fully unitary by the federal court in 2007. *Little Rock School District v. Pulaski County Special School District*, Case No. 4:82-cv-0866 (E.D. Ark.), Order filed February 23, 2007. In 2010, LRSD filed a motion to enforce the 1989 Settlement Agreement. The motion contended that operation of open-enrollment public charter schools within Pulaski County interfered with the "M-M Stipulation" and the "Magnet Stipulation." On January 17, 2013, Judge D.P. Marshall Jr. denied LRSD's motion, stating:

"The cumulative effect of open enrollment charter schools in Pulaski County on the stipulation magnet schools and M-to-M transfers has not, as a matter of law, substantially defeated the relevant purposes of the 1989 Settlement Agreement, the magnet stipulation, or the M-to-M stipulation."

Little Rock School District v. Pulaski County Special School District, Case No. 4:82-cv-0866 (E.D. Ark.), Order filed January 17, 2013. LRSD appealed to the Eighth Circuit Court of Appeals.

One (1) year later, on January 13, 2014, Judge Marshall approved a Settlement Agreement that included a provision stipulating to the voluntary dismissal with prejudice of LRSD's pending appeal concerning the charter school issues. In light of LRSD's unitary status and the parties' 2014 Settlement Agreement, Premier's requested charter renewal cannot interfere with the purposes of the Pulaski County

desegregation litigation, which has been fully concluded as to LRSD. After the dismissal and the settlement agreement, the case was completely concluded for all purposes as to LRSD, and the federal court terminated all jurisdiction in the matter. Because of that, there is no possibility that Premier's requested charter renewal could impact LRSD's unitary status. To be clear, Premier's charter renewal application cannot impact LRSD's unitary status because 1) there is no case in which LRSD's unitary status could be an issue; 2) LRSD made a claim regarding operation of open-enrollment charter schools in federal court in 2010 and lost it; and 3) as a consequence of the 2014 Settlement Agreement, the LRSD released any claims it had concerning the charter school issues. On January 30, 2014, the Court also approved a stipulation among the parties that PCSSD is unitary in the areas of Assignment of Students and Advanced Placement, Gifted and Talented and Honors Programs. Based on the stipulation, the Court released PCSSD from supervision and monitoring in these areas. Thus, as of January 30, 2014, LRSD, NLRSD and PCSSD are unitary in the area of student assignments. On April 4, 2014, the court found that PCSSD is unitary in the areas of Special Education and Scholarships. Subsequently, PCSSD was also found to be unitary in the areas of Staff and Monitoring. Pursuant to Judge Marshall's order on May 6, 2021, both PCSSD and JNPSD are unitary in all areas except School Facilities.

Upon review, Premier believes that its request to obtain the enrollment cap increase for its open-enrollment public charter shall have no negative effects on the efforts of the PCSSD and JNPSD to attain unitary status.

II. Data

According to the most recent third-quarter Average Daily Membership enrollment figures as maintained by the DESE Data Center, LRSD had a student population of 20,518 students, of which 59.94% were Black/African-American; 19.57% were White, and 16.02% were Hispanic. NLRSD's student population was 7,640 students, of which 57.19% were Black/African-American; 25.75% were White, and 11.45% were Hispanic. PCSSD's student population was 11,227 students, of which 44.37% were Black/African-American; 38.61% were White, and 10.17% were Hispanic. JNPSD's student population was 3,841 students, of which 54.81% were Black/African-American; 33.85% were White, and 7.54% were Hispanic. Premier's student population was 127 students, of which 80.8% were Black/African-American, and 14.4% were White. Premier Little Rock's student population was 82 students, of whom 97.6% were Black.

Ark. Code Ann. §6-23-106 requires that Premier's enrollment cap increase will not serve to hamper, delay, or in any manner negatively affect the desegregation efforts of a public school district or districts within the state. As explained in more detail above, Premier's careful review of the relevant statutes and court orders affecting the LRSD, NLRSD, PCSSD, and JNPSD and their student populations, and its own student population, shows that such negative impact is not present here.

III. Conclusion

Premier submits that upon the basis of its review, neither any existing federal desegregation order affecting the PCSSD, LRSD, NLRSD, and JNPSD, nor the 1989 Settlement Agreement prohibit the State's charter school authorizer from granting its enrollment cap increase, which includes a campus operating within the geographic boundaries of the LRSD.

	2 or More Races	Asian	Black/ African American	Hispanic	Native Am. Hawaiian/ Pacific Islander	White	Totals
School Districts in Pulaski County							
Jacksonville North Pulaski School District	202 4.76%	36 0.85%	2,238 52.68%	370 8.71%	22 0.52%	1,380 32.49%	4,248 --
Little Rock School District	136 0.68%	691 3.43%	11,925 59.23%	3,348 16.63%	129 0.64%	3,906 19.40%	20,135 --
N. Little Rock School District	355 4.65%	66 0.86%	4,402 57.62%	938 12.28%	40 0.52%	1,839 24.07%	7,640 --
Little Rock School District	136 0.68%	691 3.43%	11,925 59.23%	3,348 16.63%	129 0.64%	3,906 19.40%	20,135 --
DISTRICT TOTAL	829 1.59%	1,484 2.85%	30,490 58.46%	8,004 15.35%	320 0.61%	11,031 21.15%	52,158 --
Open-Enrollment Public Charter Schools in Pulaski County							
Academics Plus -	57 3.4%	79 4.7%	312 18.5%	74 4.4%	8 0.5%	1,155 68.5%	1,685 --
Capitol City Lighthouse	0 0.0%	0 0.0%	112 89.6%	7 5.6%	0 0.0%	6 4.8%	125 --
E-Stem	184 6.0%	28 0.9%	1,947 63.8%	291 9.5%	5 0.2%	597 19.6%	3,052 --
Exalt Academy	11 2.0%	0 0.0%	118 21.9%	409 75.9%	0 0.0%	1 0.2%	539 --
Jacksonville Lighthouse (Elem., Flightline)	9 1.2%	10 1.4%	496 68.2%	62 8.5%	7 1.0%	143 19.7%	727 --
Lisa Academy	106 3.4%	218 7.0%	1,428 45.7%	773 24.8%	24 0.8%	573 18.4%	3,122 --
Premier High School (NLR)	3 2.1%	1 0.7%	102 71.3%	5 3.5%	1 0.7%	31 21.7%	143 --
Premier High School (LR)	4 3.2%	0 0.0%	101 80.8%	0 0.0%	2 1.6%	18 14.4%	125 --
Founders Classical Academy WLR	8 6.5%	3 2.4%	47 38.2%	5 4.1%	1 0.8%	59 48.0%	123 --
Friendship LR	0 0.0%	0 0.0%	226 84.6%	38 14.2%	1 0.4%	2 0.7%	267 --
Scholarmade	2 0.5%	1 0.3%	375 96.2%	10 2.6%	0 0.0%	2 0.5%	390 --
Westwind School for Performing Arts	2 15.4%	0 0.0%	46 353.8%	2 15.4%	0 0.0%	0 0.0%	13 --
Graduate Arkansas	0 0.0%	0 0.0%	82 58.2%	19 13.5%	5 3.5%	35 24.8%	141 --
CHARTER TOTAL	384 3.7%	340 3.3%	5,346 51.2%	1,693 16.2%	54 0.5%	2,622 25.1%	10,439 --
COUNTYWIDE TOTAL	1,213 1.9%	1,824 2.9%	35,836 57.2%	9,697 15.5%	374 0.6%	13,653 21.8%	62,597 --

Source: ADE Data Center, accessed June 2023

Prepared by:
Shastady
Wagner, Staff
Attorney

	2 or More Races	Asian	Black/ African American	Hispanic	Native Am. Hawaiian/ Pacific Islander	White	Totals
Surrounding School Districts							
Ashdown School District	87 6.65%	4 0.31%	341 26.07%	71 5.43%	6 0.46%	799 61.09%	1,308 --
Hope School District	67 3.12%	6 0.28%	949 44.24%	703 32.77%	2 0.09%	418 19.49%	2,145 --
Spring Hill School District	36 5.80%	1 0.16%	1 0.16%	33 5.31%	4 0.64%	546 87.92%	621 --
Lafayette School District	21 4.11%	0 0.00%	315 61.64%	25 4.89%	0 0.00%	150 29.35%	511 --
Genoa School District	24 2.03%	3 0.25%	4 0.34%	23 1.94%	3 0.25%	1,126 95.18%	1,183 --
Texarkana School District	167 4.50%	17 0.46%	2,037 54.91%	209 5.63%	16 0.43%	1,264 34.07%	3,710 --
DISTRICT TOTAL	569 7.12%	28 0.35%	3,328 41.62%	1,016 12.71%	28 0.35%	3,027 37.86%	7,996 --

Source: ADE Data Center, accessed June 2023

Prepared by:
Shasta Wagner,
Staff Attorney

	2 or More Races	Asian	Black/ African American	Hispanic	Native Am. Hawaiian/ Pacific Islander	White	Totals
School Districts in Sebastian County, Arkansas							
Fort Smith School District	1,462 10.57%	703 5.08%	1,411 10.20%	4,896 35.40%	142 1.03%	5,215 37.71%	13,829 --
Lavaca School District	60 7.71%	7 0.90%	4 0.51%	53 6.81%	15 1.93%	639 82.13%	778 --
Greenwood School District	290 7.47%	72 1.85%	26 0.67%	235 6.05%	66 1.70%	3,193 82.25%	3,882 --
Hackett School District	50 6.58%	2 0.26%	4 0.53%	28 3.68%	17 2.24%	659 86.71%	760 --
DISTRICT TOTAL	1,862 9.67%	784 4.07%	1,445 7.51%	5,212 27.08%	240 1.25%	9,706 50.42%	19,249 --
Open-Enrollment Public Charter Schools in Sebastian County, Arkansas							
Premier High School of Fort Smith	7 11.1%	1 1.6%	8 12.7%	15 23.8%	0 0.0%	32 50.8%	63 --
CHARTER TOTAL	7 11.1%	1 1.6%	8 12.7%	15 23.8%	0 0.0%	32 50.8%	63 --
COUNTYWIDE TOTAL	1,869 9.7%	785 4.1%	1,453 7.5%	5,227 27.1%	240 1.2%	9,738 50.4%	19,312 --

Source: ADE Data Center, accessed June 2023

Prepared by:
Shasta Wagner,
Staff Attorney