



MEMO

DATE: November 30, 2022
TO: Charter Authorizer
FROM: ADE Legal Services Staff
SUBJECT: Desegregation Analysis of District Conversion Charter Renewal Application for Polk County Virtual Academy

I. INTRODUCTION

Polk County Virtual Academy submitted a renewal application for a district conversion public charter school, Polk County Virtual Academy. The charter school is located within the boundaries of the Mena School District. The charter school provides instruction to students in grades kindergarten through twelve (K-12). The charter school draws students from Mena School District.

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 regarding 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 renewal has been received.

IV. ANALYSIS FROM THE DEPARTMENT

Enrollment, as of the 2021-2022 school year, for the traditional public school districts in Polk County in which the Mena School District is located is attached as Exhibit B. There are no open-enrollment charter schools in the area of Polk County Virtual Academy.

“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 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)).

As stated above, Arkansas law does not allow the authorizer to approve any public charter school that “hampers, delays, or in any manner negatively affects the desegregation efforts” of a public school district. Ark. Code Ann. § 6-23-106(c). 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).

ADE is not aware of any active desegregation orders in the Polk County area and 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 the charter school 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 districts.

Section 7: Amendment Requests

List any amendment requests and provide a rationale for each (i.e., changes to grade levels, enrollment cap, location, addition of campus)

| | Topic | Rationale |
|---|-------|-----------|
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |

Section 8: Desegregation Analysis

Describe the impact, both current and potential, of the public charter school on the efforts of affected public school district(s) to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.

The granting of a conversion charter renewal to Mena Public Schools for the Polk county Virtual Academy has had no effect and will continue to have no effect on any Arkansas public school district's efforts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools. The Mena School District is not under any federal desegregation order and neither are any of the surrounding districts.

| | 2 or More Races | Asian | Black/ African American | Hispanic | Native Am. Hawaiian/ Pacific Islander | White | Totals |
|--|----------------------|---------------------|-------------------------|-----------------------|---------------------------------------|-------------------------|---------------------|
| School Districts in Polk County | | | | | | | |
| Mena School District | 64 3.71% | 21 1.22% | 8 0.46% | 107 6.20% | 35 2.03% | 1,490 86.38% | 1,725 -- |
| Cossatot River School District | 38 4.41% | 1 0.12% | 2 0.23% | 231 26.83% | 19 2.21% | 570 66.20% | 861 -- |
| Quachita River School District | 19 2.44% | 7 0.90% | 2 0.26% | 36 4.62% | 22 2.82% | 694 88.97% | 780 -- |
| DISTRICT TOTAL | 121 3.59% | 29 0.86% | 12 0.36% | 374 11.11% | 76 2.26% | 2,754 81.82% | 3,366 -- |

Source: ADE Data Center, accessed November 2022

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