



# MEMO

---

Date: April 11, 2024  
To: Charter Authorizer  
From: Stephen M. Reynolds, staff attorney for the Department  
Subject: Desegregation Analysis of Charter Amendment Request for the Premier High Schools of Arkansas Open Enrollment Public Charter Schools

---

## I. INTRODUCTION

ResponsiveEd Solutions - Arkansas applied to amend its charters to merge its Premier High Schools of Arkansas charter with its Premier High Schools of North Little Rock charter. The result of this merger is an additional campus under the Premier High Schools of Arkansas charter, necessitating the need for this memorandum. The identified building is located at 801 W 29th St., North Little Rock, AR 72114 within the boundaries of the North Little Rock 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 April 11, 2024, for the traditional public school districts and the open-enrollment charter schools in Pulaski County 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.

Pulaski County Special School District and Jacksonville-North Pulaski School District remain under federal court supervision with regard to the districts’ desegregation plans. Therefore, the authorizer should consider whether granting the amendment will negatively affect PCSSD or JNPSD’s efforts to achieve full unitary status.

However, no desegregation-related opposition was received from any of the affected school districts, and the Department has no reason to conclude, from data currently available, that this amendment is motivated by an impermissible intent to segregate schools, or that approval of this amendment would hamper, delay, or negatively affect the desegregation efforts of the affected school district.

#### V. CONCLUSION

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).

The Department has no reason to conclude, from data currently available, that approval of this application 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

Premier High Schools of Arkansas (Premier) has submitted a charter amendment request to merge its Premier High School of North Little Rock into the Premier charter. Premier High School of North Little Rock's campus is located within the boundaries of the North 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 North Little Rock (NLRSD), Little Rock (LRSD), Pulaski County Special (PCSSD) and Jacksonville-North Pulaski (JNPSD) School Districts. The schools currently contained within the Premier charter are located in Fort Smith, Little Rock and Texarkana, as well as an Online school; approved schools in Fayetteville and Russellville have not yet opened. The Fort Smith and Texarkana school districts are neither operating under a desegregation court order nor a settlement agreement.

### 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 charter amendment request 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 charter amendment request 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, NLRSD had a student population of 7,295 students, of which 57.7 % were Black/African- American; 21.9% were White, and 13.3% were Hispanic. LRSD's student population was 19,952 students, of which 58.6% were Black/African-American; 19.3 % were White, and 16.7% were Hispanic. PCSSD's student population was 11,875 students, of which 45.6% were Black/African-American; 34% were White, and 11.6% were Hispanic. JNPSD's student population was 4,174 students, of which 52.8 % were Black/African-American; 29.5% were White, and 10% were Hispanic. Premier Fort Smith's student population was 100 students, of which 62% were White; 20% were Hispanic, and 9% were Black/African-American. Premier Little Rock's student population was 64 students, of which 100% were Black/African-American. Premier North Little Rock's student population was 72 students, of which 83.3% were Black/African-American, and 5.6% each were Hispanic and White. Premier Online's student population was 302 students, of which 44.7% were Black/African-American; 33.8% were White, and 11.9% were Hispanic. Premier Texarkana's student population was 78 students, of which 48% were Black/African-American and 43.6% were White.

Ark. Code Ann. §6-23-106 requires that Premier's charter amendment request 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 NLRSD, LRSD, 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 NLRSD, LRSD, PCSSD, and JNPSD, nor the 1989 Settlement Agreement prohibit the State's charter school authorizer from granting its charter amendment request.

	2 or More Races	Asian	Black/ African American	Hispanic	Native Am. Hawaiian/ Pacific Islander	White	Totals
<b>Public School Districts and Open-Enrollment Public Charter Schools in Pulaski County</b>							
East End School District	32 5.08%	1 0.16%	16 2.54%	55 8.73%	1 0.16%	525 83.33%	630 --
Jacksonville-North Pulaski School District	268 6.42%	32 0.77%	2,201 52.73%	418 10.01%	24 0.57%	1,231 29.49%	4,174 --
Little Rock School District	284 1.42%	687 3.44%	11,685 58.57%	3,335 16.72%	114 0.57%	3,847 19.28%	19,952 --
North Little Rock School District	7 1.22%	33 5.76%	5 0.87%	251 43.80%	45 7.85%	232 40.49%	573 --
Pulaski County Special School District	688 5.79%	308 2.59%	5,412 45.57%	1,378 11.60%	52 0.44%	4,037 34.00%	11,875 --
Academics Plus Public Charter Schools	93 4.84%	77 4.01%	386 20.09%	77 4.01%	13 0.68%	1,275 66.37%	1,921 --
Arkansas Lighthouse Charter Schools	29 6.68%	3 0.69%	288 66.36%	36 8.29%	0 0.00%	78 17.97%	434 --
eStem Public Charter Schools	158 5.77%	14 0.51%	1,926 70.32%	267 9.75%	11 0.40%	363 13.25%	2,739 --
Exalt Academy	6 0.80%	0 0.00%	115 15.35%	621 82.91%	0 0.00%	7 0.93%	749 --
Founders Classical Academy	69 4.01%	543 31.59%	120 6.98%	149 8.67%	20 1.16%	818 47.59%	1,719 --
Friendship Aspire Academies	5 0.38%	5 0.38%	1226 93.80%	54 4.13%	1 0.08%	16 1.22%	1307 --
Scholarmade Achievement Place of Arkansas	2 0.58%	0 0.00%	342 98.84%	2 0.58%	0 0.00%	0 0.00%	346 --
Westwind School For Performing Arts	6 6.74%	0 0.00%	55 61.80%	7 7.87%	0 0.00%	21 23.60%	89 --
Graduate Arkansas	22 4.49%	0 0.00%	191 38.98%	58 11.84%	2 0.41%	217 44.29%	490 --
<b>Total</b>	<b>1,669 3.55%</b>	<b>1,703 3.62%</b>	<b>23,968 51.00%</b>	<b>6,708 14.27%</b>	<b>283 0.60%</b>	<b>12,667 26.95%</b>	<b>46,998 --</b>

Source: ADE Data Center, accessed April 11, 2024

Prepared by: Stephen M. Reynolds, Staff Attorney