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DATE: September 22, 2021  
TO: Charter Authorizer  
FROM: ADE Legal Services Staff  
SUBJECT: Desegregation Analysis of Open Enrollment Charter Amendment Request by LISA Academy Public Charter Schools

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## I. INTRODUCTION

LISA Academy Public Charter Schools submitted an amendment request to add a new K-12 campus within the boundaries of the Fayetteville School District. The proposed charter school would provide instruction to students in grades kindergarten through five (K-5) in its initial year, and by 2029-2030, it would provide instruction to students in grades kindergarten through twelve (K-12). The proposed charter school would possess a student enrollment cap 1,168 by 2029-2030. According to documents submitted with its amendment request, the proposed charter school expects to draw students from Fayetteville, Springdale, Bentonville, and Rogers school districts.

## 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 renewal has been received.

### IV. ANALYSIS FROM THE DEPARTMENT

Enrollment, as of the 2020-2021 school year, for the traditional public school districts and the open-enrollment charter schools in Washington 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. The goal of a desegregation case with regard to 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)).

ADE is not aware of any active desegregation orders in the affected districts, and no desegregation-related opposition was received from any of the affected school districts.

### 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).

It is difficult 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.

LISA Academy  
Desegregation Analysis- Fayetteville Campus Amendment

LISA Academy (LISA) is seeking an amendment to its charter to add a campus in Fayetteville. The campus will be comprised of Grades K-5 in the 2023-2024 school year, with a maximum enrollment of 320 students. The campus proposes to add grade levels each school year, becoming a campus housing Grades K-12 in the 2029-2030 school year. LISA is asking for a 1,168 student increase in its system-wide enrollment cap (all for the Fayetteville campus), increasing its cap from the current 5,632 students to 6,800 students. The Fayetteville campus will be located within the boundaries of the Fayetteville School District, and as an open-enrollment public charter school unconfined by district boundaries, will likely obtain most of its students from within the boundaries of the Fayetteville (FSD), Springdale (SSD), Bentonville (BSD) and Rogers (RSD) School Districts. This analysis is provided to inform the decision making of the charter authorizer regarding the effect, if any, that the enrollment cap increase would have on the efforts of the FSD, SSD, BSD and the RSD to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.

LISA, in this analysis, has carefully reviewed the potential impact that the opening of its new Fayetteville campus with a corresponding enrollment cap increase would have upon the efforts of affected 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, LISA has found that none of the school districts listed above (FSD, SSD, BSD and RSD) are under any court orders concerning their desegregation obligations, and are therefore unitary in all respects of their school operations. Therefore, the enrollment cap increase due to LISA's proposed Fayetteville campus cannot be said to have a negative impact on the FSD, SSD, BSD, and the RSD's ability to comply with the districts' statutory obligations to create and maintain a unitary system of desegregated public schools.

According to the latest enrollment figures as maintained by the DESE Data Center, the FSD had a student population of 10,045 students; the SSD had a student population of 21,804 students; the BSD had a student population of 17,958 students, and the RSD had a student population of 15,327 students. LISA had a system-wide student population of 3,306 students. Of those 3,306 students, approximately 41.6% were African-American students; 27.2% were Hispanic students; 20.8% were Caucasian students, and 6.7% were Asian students. FSD's student population was comprised of approximately 66.2% Caucasian students; 12.4% Hispanic students; 9.8% African-American students, and 7.8% students of two (2) or more races. SSD's student population was comprised of approximately 48.1% Hispanic students; 32.6% Caucasian students, and 13.7% Hawaiian/Pacific Islander students. BSD's student population was comprised of approximately 71.1% Caucasian students; 11.7% Hispanic students; 7.7 % Asian students, and 4.7% students of two (2) or more races. RSD's student population was comprised of approximately 47.8% Hispanic students, and 43.1% Caucasian students. Ark. Code Ann. §6-23-106 also requires that LISA's operation of the charter school 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. LISA's careful review of the relevant statutes affecting the FSD, SSD, BSD and RSD, and the student populations of such districts, shows that such negative effect is not present here.

In conclusion, LISA submits that upon the basis of its review, no statutory or other impediments concerning the creation and operation of desegregated public schools prohibit the State's charter school

Ex. A

authorizer from granting LISA's amendment request to add a campus in Fayetteville, and increase its enrollment cap due to the new campus from 5,632 students to 6,800 students.

	2 or More Races	Asian	Black/ African American	Hispanic	Native Am. Hawaiian/ Pacific Islander	White	Totals
<b>School Districts in Washington County</b>							
Fayetteville School District	787 7.75%	299 2.95%	981 9.66%	1,245 12.26%	189 1.86%	6,650 65.51%	10,151 --
Springdale School District	392 1.79%	321 1.47%	480 2.19%	10,481 47.90%	3,110 14.21%	7,098 32.44%	21,882 --
Elkins School District	85 6.70%	1 0.08%	13 1.02%	65 5.12%	24 1.89%	1,081 85.19%	1,269 --
Farmington School District	158 6.14%	13 0.51%	78 3.03%	234 9.10%	20 0.78%	2,069 80.44%	2,572 --
Greenland School District	50 6.73%	2 0.27%	10 1.35%	54 7.27%	8 1.08%	619 83.31%	743 --
<b>DISTRICT TOTAL</b>	<b>1,472 4.30%</b>	<b>623 1.82%</b>	<b>1,484 4.34%</b>	<b>11,845 34.63%</b>	<b>3,331 9.74%</b>	<b>15,448 45.17%</b>	<b>34,203 --</b>
<b>Open-Enrollment Public Charter Schools in Washington County</b>							
Haas Hall Academy	33 7.4%	41 9.2%	12 2.7%	35 7.9%	4 0.9%	319 71.8%	444 --
Haas Hall Academy Jones Center	9 4.0%	18 8.0%	10 4.4%	52 23.0%	4 1.8%	133 58.8%	226 --
LISA Academy Springdale	16 5.5%	3 1.0%	8 2.8%	132 45.5%	15 5.2%	116 40.0%	290 --
<b>CHARTER TOTAL</b>	<b>58 6.0%</b>	<b>62 6.5%</b>	<b>30 3.1%</b>	<b>219 22.8%</b>	<b>23 2.4%</b>	<b>568 59.2%</b>	<b>960 --</b>
<b>COUNTYWIDE TOTAL</b>	<b>1,530 4.4%</b>	<b>685 1.9%</b>	<b>1,514 4.3%</b>	<b>12,064 34.3%</b>	<b>3,354 9.5%</b>	<b>16,016 45.5%</b>	<b>35,163 --</b>

Source: ADE Data Center, accessed Sept. 2021

Prepared by:  
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Ex. B