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Date: February 5, 2024  
To: Charter Authorizer  
From: Stephen M. Reynolds, staff attorney for the Department  
Subject: Desegregation Analysis of Charter Amendment Request for the Bentonville School for Advanced Studies Open Enrollment Public Charter School

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## I. INTRODUCTION

Bentonville School for Advanced Studies applied to amend its charter to change the physical location of its campus. The charter has not yet opened its school, but recently secured an agreement to lease the Lane Hotel building in Rogers, AR from KLS Leasing, LLC., pending approval of the lease agreement from the Commissioner of the Division of Elementary and Secondary Education. The identified building is located at 121 W. Poplar St., Rogers, AR 72756 within the boundaries of the Rogers 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 February 5, 2024, for the traditional public school districts and the open-enrollment charter schools in Benton County, Washington County, and Crawford 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 Department 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).

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.

School for Advanced Studies – Northwest Arkansas  
Desegregation Analysis

This desegregation analysis is being provided in support of the relocation amendment request from the School for Advanced Studies – Northwest Arkansas (the “School”).<sup>1</sup> The School is requesting a change from the projected location included in the initial open-enrollment charter school application from within the boundaries of the Bentonville School District to an identified location within the boundaries of the Rogers School District. The School has been able to secure an agreement to lease the historic Lane Hotel building located at 121 W. Poplar St., Rogers, AR 72756.<sup>2</sup> The School anticipates that it will receive most of its students from the Rogers (RSD), Bentonville (BSD), Decatur (DSD), Eureka Springs (ESSD), Gentry (GSD), Gravette (GRSD), Pea Ridge (PRSD), Siloam Springs (SSSD), and Springdale (SSD) School Districts. As an open-enrollment public charter school, however, the School may enroll students from anywhere within the State of Arkansas. Pursuant to Ark. Code Ann. §6-23-106, the School is required to carefully review the potential impact that its operation would have upon the efforts of the RSD, BSD, DSD, ESSD, GSD, GRSD, PRSD, SSSD, and SSD to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools. At full enrollment, the School will have a student population of 750 students in Grades 5-12.

School for Advanced Studies – Northwest Arkansas has carefully reviewed the potential impact that the operation of an open-enrollment public charter school within the boundaries of the RSD 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, the School has found that none of the school districts listed above are under any court orders concerning their desegregation obligations, and are therefore unitary in all respects of their school operations. Therefore, the granting of the School’s amendment request to operate its school within the boundaries of the RSD cannot be said to have a negative impact on the RSD, DSD, ESSD, GSD, GRSD, PRSD, BSD, SSSD, and the SSD’s ability to comply with the districts’ statutory obligations to create and maintain a unitary system of desegregated public schools.

According to the latest Average Daily Membership enrollment figures for school year 2023-2024 as maintained by the DESE Data Center, the BSD had a student population of 18,674 students; the DSD had a student population of 579 students; the ESSD had a student population of 633 students; the GSD had a student population of 1,617 students; the GRSD had a student population of 1,998 students; the PRSD had a student population of 2,454 students; the RSD

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<sup>1</sup>In the instant amendment request, the School has requested approval for a name change from “Bentonville School for Advanced Studies” to “School for Advanced Studies – Northwest Arkansas.” The amendment package also includes requests for certain waivers related to the School’s Board of Directors.

<sup>2</sup>The School understands that it must obtain approval from the Commissioner for the lease.

had a student population of 15,529 students; the SSSD had a student population of 4,463 students, and the SSD had a student population of 21,801 students. BSD's student population was comprised of 70.6% White students; 12% Hispanic students, and 7.4% Asian students. DSD's student population was comprised of 44.2% White students; 38.7% Hispanic students, and 5.7% Asian students. ESSD's student population was comprised of 87.4% White students and 8.1% Hispanic students. GSD's student population was comprised of 58.7% White students; 17.9% Hispanic students, and 8.1% Asian students. GRSD's student population was comprised of 82.8% White students and 7.3% Hispanic students. PRSD's student population was comprised of 85.9% White students and 8.1% Hispanic students. RSD's student population was comprised of 48.9% Hispanic students and 41.3% White students. SSSD's student population was comprised of 48.0% White students; 34.4% Hispanic students, and 8.6% of students who were Two or More Races. SSD's student population was comprised of 48.0% Hispanic students; 31.4% White students, and 13.6% Hawaiian/Pacific Islander students.

In conclusion, School for Advanced Studies – Northwest Arkansas 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 authorizer from granting its location amendment request to operate an open-enrollment public charter school within the boundaries of the Rogers School District.

	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 Benton County, Washington County, Carroll County, and Madison</b>							
Arkansas Arts Academy	75	15	9	213	7	685	1,004
	7.47%	1.49%	0.90%	21.22%	0.70%	68.23%	--
AR Connections Academy	269	25	520	287	58	2,645	3,804
	7.07%	0.66%	13.67%	7.54%	1.52%	69.53%	--
Bentonville School District	974	1,527	601	2,383	400	13,252	19,137
	5.09%	7.98%	3.14%	12.45%	2.09%	69.25%	--
Decatur School District	7	33	5	251	45	232	573
	1.22%	5.76%	0.87%	43.80%	7.85%	40.49%	--
Eureka Springs School District	9	6	5	61	5	536	622
	1.45%	0.96%	0.80%	9.81%	0.80%	86.17%	--
Elkins School District	101	4	18	89	24	1,171	1,407
	7.18%	0.28%	1.28%	6.33%	1.71%	83.23%	--
Farmington School District	213	18	84	300	30	2,178	2,823
	7.55%	0.64%	2.98%	10.63%	1.06%	77.15%	--
Fayetteville School District	912	258	1,066	1,432	192	6,304	10,164
	8.97%	2.54%	10.49%	14.09%	1.89%	62.02%	--
Gentry School District	177	121	13	318	72	969	1,670
	10.60%	7.25%	0.78%	19.04%	4.31%	58.02%	--
Gravette School District	112	41	10	149	42	1,699	2,053
	5.46%	2.00%	0.49%	7.26%	2.05%	82.76%	--
Greenland School District	54	1	14	59	5	587	720
	7.50%	0.14%	1.94%	8.19%	0.69%	81.53%	--
Haas Hall Academy	126	239	52	201	12	792	1,422
	8.86%	16.81%	3.66%	14.14%	0.84%	55.70%	--
Huntsville School District	74	27	13	261	95	1,799	2,269
	3.26%	1.19%	0.57%	11.50%	4.19%	79.29%	--
Lincoln School District	60	42	5	123	34	798	1,062
	5.65%	3.95%	0.47%	11.58%	3.20%	75.14%	--
Pea Ridge School District	35	19	48	221	53	2,151	2,527
	1.39%	0.75%	1.90%	8.75%	2.10%	85.12%	--
Prairie Grove School District	95	31	28	188	51	1,724	2,117
	4.49%	1.46%	1.32%	8.88%	2.41%	81.44%	--
Premier High School Springdale	3	1	3	36	5	25	73
	4.11%	1.37%	4.11%	49.32%	6.85%	34.25%	--
Rogers School District	655	211	209	7586	449	6419	15529
	4.22%	1.36%	1.35%	48.85%	2.89%	41.34%	--
Siloam Springs School District	389	159	49	1,637	223	2,054	4,511
	8.62%	3.52%	1.09%	36.29%	4.94%	45.53%	--
Springdale School District	651	296	472	10,555	3,036	6,702	21,712
	3.00%	1.36%	2.17%	48.61%	13.98%	30.87%	--
West Fork School District	50	3	4	45	11	665	778
	6.43%	0.39%	0.51%	5.78%	1.41%	85.48%	--
<b>Total</b>	<b>4,652</b>	<b>2,918</b>	<b>3,179</b>	<b>24,758</b>	<b>4,626</b>	<b>51,333</b>	<b>91,466</b>
	<b>5.09%</b>	<b>3.19%</b>	<b>3.48%</b>	<b>27.07%</b>	<b>5.06%</b>	<b>56.12%</b>	<b>--</b>

Source: ADE Data Center, accessed February 6, 2024

Prepared by: Stephen M. Reynolds, Staff Attorney