



MEMO

DATE: August 31, 2023
TO: Charter Authorizer
FROM: ADE Legal Services Staff
SUBJECT: Desegregation Analysis of Open Enrollment Charter Application for CIVICA Career and Collegiate Academy Bentonville

I. INTRODUCTION

CIVICA Career and Collegiate Academy Bentonville submitted an application to open a new open enrollment public charter school. The charter school plans to service grades kindergarten (K) through third (3), sixth (6), and ninth (9) in its first year and progressively add a grade until it reaches grades five (5) through twelve (12). The charter will have a progressive cap beginning with 550 in its first year, before arriving at 2550 by the 2028-2029 school year.

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 August 1, 2023, for the traditional public school districts and the open-enrollment charter school in Benton 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 ADE is aware of desegregation orders affecting LRSD, PCSSD, and the North Little Rock School District (NLRSD). *Little Rock School District, et al. v. Pulaski County Special School District, et al.*, Case No. 4:82-cv-00866-DPM (E.D. Ark.). 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)).

The Division 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 Division 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.

The applicant requests that the authorizer allow a licensed certified public accountant, rather than the Legislative Auditor, to perform the first-year audit. The audit will be conducted by an Arkansas-licensed CPA and/or firm and in accordance with auditing standards as set forth by the American Institute of Certified Public Accountants or other applicable audit standards, as determined by the Board in compliance with ADE audit rules, and best practices for auditing a public charter school.

The Board expects and demand a full, thorough, expedient audit. All audit findings will be presented to the Board. The auditors will be available for questions, and all relevant information set forth for review. Once the board approves, the audit is submitted to the state.

The applicant will work with HLB Gravier, LLP for its audit needs. HLB Gravier commits to becoming a member of the Arkansas State Board of Public Accountancy.

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36. If the facility to be used by the school has been identified, list the owner(s) of the facility, and describe their relationship with employees or directors of the sponsoring entity or charter management organization.

A facility has not yet been identified.

37. If the facility to be used by the school is not currently in compliance with the Americans with Disabilities Act (ADA) and Individuals with Disabilities Education Act (IDEA), provide a list of items that will need to be addressed to bring the facility into compliance.

The applicant will ensure that the facility will be ADA and IDEA compliant.

38. Are there any alcohol sales within 1,000 feet of the facility?

There will not be alcohol sales within 1,000 feet of the facility.

39. Describe the potential impact of the proposed public charter school on the efforts of affected public school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.

CIVICA Academy Arkansas anticipates that it will receive most of its students from the Bentonville (BSD), Fayetteville (FSD), Rogers (RSD), and Springdale (SSD) School Districts. As an open-enrollment public

charter school, however, CIVICA Academy Arkansas may enroll students from anywhere within the State of Arkansas. Pursuant to Ark. Code Ann. §6-23-106, CIVICA Academy Arkansas is required to carefully review the potential impact that its operation would have upon the efforts of the BSD, FSD, RSD, and SSD to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools. At full enrollment, CIVICA Academy Arkansas will have a student population of 2,000 students in Grades K-12.

CIVICA Academy Arkansas, in its review, has carefully reviewed the potential impact that the operation of an open-enrollment public charter school within the boundaries of either the BSD or the FSD would have upon the efforts of those 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, CIVICA Academy Arkansas 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 an open-enrollment charter to CIVICA Academy Arkansas to operate its school within the boundaries of the BSD or the FSD cannot be said to have a negative impact on the BSD, FSD, RSD, 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 third-quarter Average Daily Membership enrollment figures as maintained by the DESE Data Center, the BSD had a student population of 18,336 students; the FSD had a student population of 10,258 students; the RSD had a student population of 15,604 students, and the SSD had a student population of 21,756 students. BSD's student population was comprised of 70.55% White students; 11.76% Hispanic students, and 7.75% Asian students. FSD's student population was comprised of 64.44% White students; 12.47% Hispanic students, and 10.32% Black students. RSD's student population was comprised of 47.84% Hispanic students and 42.75% White students. SSD's student population was comprised of 47.88% Hispanic students; 31.95% White students, and 13.7% Hawaiian/Pacific Islander students.

In conclusion, CIVICA Academy 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 request to operate an open-enrollment public charter school within the boundaries of either the BSD or the FSD.

40. List the services that the CMO will provide to the charter and the annual cost of the services.

The CIVICA Educational Foundation, Inc. as the CMO for the school will be paid a fee of \$750 per student per year. The proposed CMO, will not be paid any bonuses or other compensation.

The CIVICA Network (www.civicanetwork.com) operates three schools across three states. The mission of the CIVICA network is to create an environment that strives for academic achievement, character formation and college & career readiness. The model is in line with recent education reform laws in Arkansas which call on established operators to bring high-quality programs to the students of Arkansas. The CMO also pays special attention to the needs of the community in each area in operates. Career academics and pathways offered are associated with the Bentonville community's industries.

CIVICA Academy Arkansas CMO agreement with CIVICA Educational Foundation, Inc will cover all back office support services to include, but not limited to:

- Professional development that is aligned to the CIVICA Network model and Arkansas Educational Standards
- Research-based lesson planning assistance

	2 or More Races	Asian	Black/ African American	Hispanic	Native Am. Hawaiian/ Pacific Islander	White	Totals
School Districts in Benton County							
Bentonville School District	887 4.75%	1,379 7.38%	603 3.23%	2,248 12.04%	398 2.13%	13,159 70.47%	18,674 --
Springdale School District	590 2.71%	326 1.50%	505 2.32%	10,462 47.99%	3,067 14.07%	6,851 31.43%	21,801 --
Gravette School District	99 4.95%	41 2.05%	8 0.40%	145 7.26%	48 2.40%	1,657 82.93%	1,998 --
Gentry School District	175 10.82%	131 8.10%	10 0.62%	289 17.87%	63 3.90%	949 58.69%	1,617 --
Siloam Springs School District	382 8.56%	149 3.34%	40 0.90%	1,534 34.37%	216 4.84%	2,142 47.99%	4,463 --
Pea Ridge School District	36 1.47%	20 0.81%	45 1.83%	199 8.11%	48 1.96%	2,106 85.82%	2,454 --
Decatur School District	17 2.94%	33 5.70%	9 1.55%	224 38.69%	40 6.91%	256 44.21%	579 --
Rogers School District	580 3.70%	215 1.37%	221 1.41%	7,535 48.10%	466 2.97%	6,648 42.44%	15,665 --
DISTRICT TOTAL	2,173 3.74%	1,961 3.37%	1,337 2.30%	20,390 35.06%	3,979 6.84%	28,315 48.69%	58,155 --
Open-Enrollment Public Charter Schools in Benton County							
Haas Hall Academy	97 7.8%	196 15.7%	42 3.4%	173 13.9%	8 0.6%	732 58.7%	1,248 --
Arkansas Arts Academy	85 7.8%	12 1.1%	9 0.8%	221 20.3%	5 0.5%	758 69.5%	1,090 --
Premier High School of Springdale	0 0.0%	1 1.1%	2 2.1%	55 58.5%	2 2.1%	34 36.2%	94 --
LISA Academy Springdale	16 4.4%	5 1.4%	20 5.5%	164 45.3%	22 6.1%	135 37.3%	362 --
CHARTER TOTAL	182 7.8%	208 8.9%	51 2.2%	394 16.9%	13 0.6%	1,490 63.7%	2,338 --
COUNTYWIDE TOTAL	2,355 3.9%	2,169 3.6%	1,388 2.3%	20,784 34.4%	3,992 6.6%	29,805 49.3%	60,493 --

Source: ADE Data Center, accessed August 2023

Shasta Wagner,