



MEMO

DATE: July 8, 2023
TO: Charter Authorizer
FROM: ADE Legal Services Staff
SUBJECT: Desegregation Analysis of Open Enrollment Charter Application for Imboden Charter School

I. INTRODUCTION

Imboden Charter School submitted an amendment request to change the physical location of its charter. The charter school, currently located within the boundaries of the Sloan-Hendrix School District would now be located within the boundaries of the Lawrence County School District. The charter school serves grades kindergarten to eighth grade and has a current enrollment of 63 students. The new location will expand the occupancy space for the charter, which the charter hopes will lead to increased enrollment.

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 2022-2023 school year, for the traditional public school districts and the open-enrollment charter school in Lawrence 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)).

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.

Imboden Area Charter School
Desegregation Analysis

Imboden Area Charter School (IACS) is seeking to amend its charter to change its physical location, and submits this Desegregation Analysis to the State Charter Authorizer pursuant to Ark. Code Ann. §6-23-106 and Section 4.02.3.3 of the DESE Charter School Rules. IACS is currently located in Imboden, Arkansas within the boundaries of the Sloan-Hendrix School District, and is seeking to relocate the school to a facility in Black Rock, Arkansas within the boundaries of the Lawrence County School District. As an open-enrollment public charter school unconfined by district boundaries, IACS expects to continue to obtain the majority of its students from within the boundaries of the Lawrence County, Sloan-Hendrix, Hillcrest and Pocahontas School Districts as well as students who were formerly home-schooled.

In carefully reviewing the potential impact that IACS' school relocation would have upon the efforts of the Lawrence County School District; the Sloan-Hendrix School District, and the other contiguous districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools, the applicant finds that neither the Sloan-Hendrix and Lawrence County School Districts, nor the Hillcrest, Lawrence County and Pocahontas School Districts, have ever been subject to federal court orders to create and maintain a unitary system of desegregated public schools. As an open-enrollment public charter school, IACS must be race-neutral and non-discriminatory in its student selection and admission processes, and its operation in its new location will not serve to hamper, delay, or in any manner negatively affect the desegregation efforts of any public school district or districts within the state.

In conclusion, IACS submits that the granting of its charter amendment request by the State Charter Authorizer to relocate the school from its current location within the Sloan-Hendrix School District to a location within the Lawrence County School District would not hamper, delay or in any manner negatively affect the desegregation efforts of a public school district or public school districts in the state.

	2 or More Races	Asian	Black/ African American	Hispanic	Native Am. Hawaiian/ Pacific Islander	White	Totals
School Districts in Sebastian County, Arkansas							
Sloan-Hendrix School District	9	1	2	12	5	721	750
Lawrence County School District	1.20%	0.13%	0.27%	1.60%	0.67%	96.13%	--
Hillcrest School District	44	12	2	52	4	868	982
Hoxie School District	4.48%	1.22%	0.20%	5.30%	0.41%	88.39%	--
	3	0	0	9	0	374	386
	0.78%	0.00%	0.00%	2.33%	0.00%	96.89%	--
	28	0	9	18	3	750	808
	3.47%	0.00%	1.11%	2.23%	0.37%	92.82%	--
DISTRICT TOTAL	84	13	13	91	12	2,713	2,926
	2.87%	0.44%	0.44%	3.11%	0.41%	92.72%	--
Open-Enrollment Public Charter Schools in Sebastian County, Arkansas							
Imboden Charter School	0	0	0	1	5	57	63
	0.0%	0.0%	0.0%	1.6%	7.9%	90.5%	--
CHARTER TOTAL	0	0	0	1	5	57	63
	0.0%	0.0%	0.0%	1.6%	7.9%	90.5%	--
COUNTYWIDE TOTAL	84	13	13	92	17	2,770	2,989
	2.8%	0.4%	0.4%	3.1%	0.6%	92.7%	--

Source: ADE Data Center, accessed July 2023

Prepared by:
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