

George J. Bequette, Jr.  
Keith I. Billingsley  
W. Cody Kees

Phillip M. Brick, Jr.  
Jacquelyn Harrison



Simmons Bank Tower  
425 West Capitol Avenue, Suite 3200  
Little Rock, Arkansas 72201-3469  
www.bbpalaw.com  
(T) (501) 374-1107  
(F) (501) 374-5092

June 2, 2023

**Via Email**

Deborah Coffman, Assistant Commissioner of Public School Accountability  
Division of Elementary and Secondary Education  
Arkansas Department of Education  
Four Capitol Mall, Room 405-B  
Little Rock, AR 72201  
Email: Deborah.Coffman@ade.arkansas.gov

Re: Cutter Morning Star School District  
Accredited-Probation Status Appeal

Dear Ms. Coffman:

The Cutter Morning Star School District (“CMSSD” or “District”) hereby submits the following information in appeal, challenging the Division of Secondary and Elementary Education’s (“DESE”) decision to place the District under Accredited-Probation status. Additionally, the District reserves the right to amend or supplement this response, if necessary, particularly if additional information is discovered or the issues become more focused.

**Responses to Findings**

**Finding 1: Evidence available indicates that the district knowingly enrolled students from All Children's Academy as full-time Cutter Morning Star (CMS) students and did not provide educational services to those students.**

**a. Seven (7) students have been identified as dually enrolled in the 21-22 school year.**

**Response:**

On March 21, 2021, the District applied to DESE for an Alternative Learning Education (“ALE”) Program for an ALE partnership between All Children’s Academy (“ACA”) and New Hope Therapy (“New Hope”). This partnership included certified teachers provided by ACA and a licensed therapist by New Hope to participating students.

The District received an ALE program approval letter on July 15, 2021, which Superintendent Dr. Nancy Anderson assumed was for the ACA/New Hope ALE. However,

unbeknownst to Dr. Anderson at the time, it was an approval for the District's Better Chances ALE, a separate ALE. The District did not receive a letter of denial for the ACA/ New Hope ALE, and therefore honestly assumed that the ACA/New Hope ALE had been approved. The District has no reason to believe the ALE had not been approved.

The ACA/New Hope ALE Program was very similar to other ALE programs of the District. The District employs an ALE Director (this is a District employee) that coordinates with ACA/New Hope and this employee has been the director of ALE services for the District for several years. The ACA/New Hope ALE is housed at the District. The District has had similar ALE partnerships with Fountain Lake and Jessierville, where those Districts physically housed the ALE program. More recently, the District had a partnership with Arch Ford for ALE services.

The District ALE Director is a highly qualified certified teacher, has been to all ALE trainings and completed all required professional development to be an ALE teacher and to serve as the ALE director. The District ALE Director is responsible for ensuring the District is in compliance with all DESE rules and regulations, including but not limited to: ALE program description submission; setting up referral meetings with parents and the team; ensuring that the referral packet is complete; ensuring observations of students are conducted; monitoring progress and student action plans; ensuring the point system is correct; completion of all transition documents; ensuring students are receiving counseling services; ensuring curriculum and instruction are aligned with Arkansas standards; ensuring proper student to staff ratios; and that instruction will be supplemented with technology. Accordingly, the ACA/New Hope ALE aligned with all DESE requirements.

You assert seven students were dually enrolled, but the District does not have this information and the identity of these students remains unknown. This significantly impedes the District's ability to prepare a defense. The District assumes these seven students at issue were enrolled in what the District honestly believed was an approved ALE program, since the District had not received a denial letter for the ACA/New Hope ALE. The District acted in the same manner with other ALE partnerships, including Arch Ford, First Step, Virtual Arkansas, Three Rivers, Kid Source, and National Park College.

It is the District's understanding that DESE believes the seven students that were considered dually enrolled for the 21-22 school year is based on a misunderstanding that ACA was a private school. However, the District never understood ACA to be a private school, as it held itself out as a "program supporting homeschool students." See Letter from ACA Chief Executive Officer Nicki Sessions, dated May 19, 2023. In that same letter, Ms. Sessions confirms that ACA is not a private school, but a "homeschool academic program." In an email from Deborah Coffman replying to the Letter from Ms. Sessions on May 22, 2023, Ms. Coffman states: "As per your request, All Children's Academy will be removed from the state list of private schools on the DESE website. Please note that it will take a few days for the website to be updated. Also, please

archive this email for your documentation.” Accordingly, even DESE recognized as of this date that ACA was not a private school—the District’s understanding all along.

Pursuant to Rule 7.0 of the ADE Rules Governing Home Schools, the District can enroll a homeschool student in its course offerings, which it did here. Accordingly, the seven students at issue could not be “dually enrolled,” but enrolled in the District.

Finally, the District partnership with ACA and New Hope Therapy would be considered a Transformation Contract according to our interpretation of LEARNS. It would also be considered an Arkansas High Impact Tutoring Program and Course Choice Program. Accordingly, the efforts of the District should be applauded, not grounds for probation.

- b. The district falsely identified students as Alternative Education students and was notified in December 2022 of required repayment in the amount of \$48,000 and required to correct ALE data**

**Response:**

As explained above, the District had the misunderstanding that its ACA/New Hope ALE had been approved by DESE. When the District learned of its error on December 20, 2022, it was directed by DESE to “immediately cease operation of the partnership as an ALE Program,” and the District immediately corrected the ALE data in December 2022 by identifying ALE students as virtual. This is how the District understood this issue was to be corrected. The District subsequently made the required repayment of \$48,000.

- c. Nineteen (19) students have been identified as dually enrolled in the 22-23 school year.**

**Response:**

See Response to (a.) above. The District’s position remains that these students were not dually enrolled because they were participating in the ACA homeschool program and could be enrolled in the District where they were receiving services—here, Cutter Morning Star.

- d. Identified students are marked as virtual students in eSchool but the student’s schedules do not indicate they are receiving curriculum or instruction from CMS educators.**

**Response:**

ACA/New Hope ALE Students were provided any opportunity to receive any curriculum or instruction offered by the District. The District reviewed curriculum utilized by ACA and New Hope to ensure that strong and appropriate curriculum was being offered to the ALE students and that ALE students were meeting appropriate frameworks. The District ensured that ACA and New Hope were providing high quality instruction by Arkansas licensed teachers that met state standards and was aligned with the Science of Reading. This was the same way the District had acted with other similar partnerships, such as; Arch Ford, First Step, Virtual Arkansas, Three Rivers, Kid Source, and National Park College.

At bottom, the District has been provided with no law or rule that would literally require a District employee to provide direct instruction to students in its ALE. This is not required in other similar programs that the District—any many other school districts—utilize.

- e. According to School Choice Paperwork provided by CMS, the dually enrolled students have been approved to attend CMS through school choice (indicating that the current 19 students live outside the CMS district).**

**Response:**

All students were accepted according to the laws and guidelines set forth by the State of Arkansas, DESE and Garland County Desegregation Agreement. Resident schools were notified of the acceptance of school choice applicants, therefore no students were dually enrolled. In addition, this was a partnership between the District and ACE/New Hope Therapy (a non-private entity), much like the partnership of the aforementioned entities.

- f. According to interviews, these dually enrolled students are receiving full-time, faith-based curriculum and instruction from ACA.**

**Response:**

As students of the District, these students were receiving curriculum and instruction aligned to Arkansas State Standards by Arkansas Licensed Teachers with a faith based component that was reviewed by and agreed upon by the parents of the enrolled students.

- g. While CMS is providing technology devices for these students, no written evidence of curriculum or instruction provided by CMS is available.**

**Response:**

The District had the students enrolled in what it assumed was an approved ALE Program, as the District had not received a denial letter. To the District's belief and knowledge, ACA is not a private school and the district was not aware that the students would be considered "dually enrolled." The District believed this partnership would fall under the same guidelines as its partnership with Arch Ford ALE, First Step, NPC, Three Rivers and Virtual Arkansas. The ACA/New Hope Therapy certified teachers were entered into eSchool as teachers of record for the students as are the certified teachers at Arch Ford ALE, NPC, Three Rivers, and Virtual Arkansas. The District does not provide curriculum or instruction for the partnership programs with Arch Ford ALE, First Step, NPC, Three Rivers, Kid Source, and Virtual Arkansas and therefore was unaware that it was required to do so. In addition, all online programs were available for use as well as any other requested resources. Curriculum resources were requested for our Math High Quality Instructional Materials and those resources were provided to ACA. There was a meeting between third and fourth grade teachers and they worked together doing lesson plans. New Hope Therapy teachers also attended Professional Development with District teachers.

Students at ACA/New Hope had access to the District library and routinely checked out books to read and use as part of their educational program. There was collaboration on gifted and talented services, along with special education services by a licensed special education teacher in collaboration with the District. The ALE students participated in art, music, library, and physical education provided by District teachers. All ALE students completed all state mandated testing with fully licensed ACA/New Hope staff. Licensed ACA/New Hope staff participated in professional development on state mandated testing to be able to administer the state mandated tests with District certified staff. The District paid for educational therapies for our students with New Hope Therapy. The District provided security to ACA/New Hope and ensured it completed safety drills including moving to our District safe room recently during a tornado threat.

**h. CMS is receiving Average Daily Membership (ADM) on the dually enrolled students.**

**Response:**

The District had the students enrolled in what they assumed was an approved ALE Program since the District had not received a denial letter. To the District's belief and knowledge, ACA is not a private school and the District was not aware that the students would be considered "dually enrolled." The District believed this partnership would fall under the same guidelines as our partnership with Arch Ford ALE, First Step, NPC, Three Rivers and Virtual Arkansas. The ACA/New Hope Therapy certified teachers were entered into eSchool as teachers of record for the students as are the certified teachers at Arch Ford ALE, NPC, Three Rivers, and Virtual Arkansas.

**i. ACA is charging the dually enrolled students tuition.**

**Response:**

The District understands that ACA/New Hope charges tuition to Students. To the best of the District's knowledge, this tuition was for operating expenses, but had no direct involvement in the administration of the tuition. The District paid for all the therapies provided to ACA/New Hope ALE students, which included speech, physical therapy, occupational therapy and mental health therapy. Furthermore, the District provided special education services, gifted and talented education, math curriculum, media services, art, music, physical education, enrichment services and all testing to the ALE students. The District provided the ALE students with access to its cafeteria and lunch. The District disputes the students were dually enrolled.

**j. CMS has a lease agreement with ACA for facility use.**

**Response:**

The District has a lease agreement with ACA/New Hope Therapy for facility use and a memorandum of understanding with New Hope Therapy for educational therapy services provided to students. ACA is nonprofit that is managed by New Hope Therapy. The District used the lease agreement provided by the Arkansas Department of Education Facility Division. The District is not aware of any issue with maintaining the lease agreement.

**Finding 2: Evidence indicates that Cutter Morning Star (CMS) is not submitting accurate attendance data in cycle submissions and knowingly falsifying enrollment data.**

**a. According to interviews, ACA is taking daily attendance for the dually enrolled students however, the CMS staff indicated that they did not receive the daily attendance for the dually enrolled students.**

**Response:**

Attendance was taken at ACA/New Hope and was supposed to be given to CMS to enter into eSchool. The District was not aware until the DESE visit on April 12, 2023 that the attendance was not being entered into eSchool, although attendance was being taken. The District has since entered the attendance data in eSchool for our students at ACA/New Hope.

After an investigation by Dr. Anderson, it was determined that the attendance was not entered into eSchool due to a change in leadership and both ACA/New Hope and the District elementary school, although attendance records were maintained. The District ALE Director is responsible for attendance in the ALE program and this matter is being handled by the District as

a personnel matter. The District is confident that moving forward all ALE program attendance records will not only be maintained, but will be promptly entered into eSchool.

**b. According to eSchool, these ACA students are present each day (no absences).**

**Response:**

Attendance was taken by ACA/New Hope and was intended to be given to the District to enter into eSchool. The District was not aware until the DESE visit on April 12, 2023 that the attendance was not being entered, although attendance records were maintained. The District has since entered the attendance data in eSchool for our students at ACA/New Hope.

**c. District received funding based on increased enrollment/attendance as noted in Finding #1.**

**Response:**

See detailed response(s) above.

Should you have further questions, or if you need additional information, please do not hesitate to contact the undersigned counsel for the Cutter Morning Star School District.

Sincerely,



Cody Kees

Enclosures

cc: Dr. Nancy Anderson (*via email*)  
Courtney Salas-Ford (*via email*)