



MEMO

DATE: August 6, 2023
TO: Charter Authorizer
FROM: ADE Staff Attorney
SUBJECT: Desegregation Analysis of Charter Applicant Institute for the Creative Arts

I. INTRODUCTION

The Institute for the Creative Arts has submitted an application to open a new open enrollment public charter school. The charter school plans to service grades nine (9) through eleven (11) in its first year and add grade (12) in year two of operation. The charter will have a progressive cap beginning with 250 students in years one and growing to 500 students by the 2027-2028 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 amendment has been received.

IV. ANALYSIS FROM THE DEPARTMENT

Enrollment, as of the 2022-2023 school year, for the traditional public school districts and open-enrollment charter schools contiguous to the Fort Smith School District 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).

There is nothing, from data currently available, that suggests the amendment request 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.

~~President may serve in an advisory capacity only to CSA as a means of assisting with a smooth transition.~~ Instructors and staff members working in CSA may also be hired to work in the Institute. Payment will be made to these individuals from separate accounts and from the two separate organizations.

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 facility is in compliance with the Americans with Disabilities Act (ADA) and the Individuals with Disabilities Education Act (IDEA).

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

No

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.

The Institute for the Creative Arts will be housed in the Center for the Creative Arts located in Fort Smith, AR within the boundaries of the Fort Smith Public School District. As an open-enrollment public charter school, it is not confined to district boundaries. Due to the lack of boundary restrictions, we anticipate that students will attend the Institute from Fort Smith, Greenwood, Van Buren, and Alma districts along with other rural districts that are within 60 minutes of the Institute. At full enrollment, the Institute will serve 500 students in grades 9-12. Below is a listing of possible districts:

Alma
Booneville
Cedarville
Charleston
County Line
Fort Smith
Greenwood
Hackett
Johnson County Westside
Lavaca
Magazine
Mansfield
Mountainburg

Mulberry/Pleasant View

Ozark

Paris

Scranton

Van Buren

Waldron

Westfork

According to the School Year 2021-2022 Third-Quarter Average Daily membership figures, as maintained by the ADE Data Center, the Fort Smith School District had a student population of 13,818 students, of which 38.91% were White; 34.88% were Hispanic, and 10.51% were Black. The Van Buren School District had a student population of 5,598 students, of which 66.45% were White and 19% were Hispanic. The Greenwood School District had a student population of 3,842 students, of which 82.87% were White and 5.87% were Hispanic. The Alma School District had a student population of 3,180 students, of which 84.02% were White and 6.48% were of Two or More Races.

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

CSA is the sponsoring entity only. CSA is providing a state-of-the art 40,000 sq. ft. facility that is uniquely designed to best serve students in arts education. It includes classrooms, theatres, dance studios, rehearsal halls, practice studios, recording studio, film and art rooms, culinary space, media space, cafeteria, box office, student gathering areas, and outdoor performance spaces. CSA will lease the space yearly to the Institute. The lease agreement will include services that CSA will provide.

CSA has long planned for a performing and visual arts high school that provides the final step in preparation to becoming a professional artist. The CSA Preschool for the Creative Arts and the after-school Community Arts Connection bridge children and young people to the high school Institute for the Creative Arts.

	2 or More Races	Asian	Black/ African American	Hispanic	Native Am. Hawaiian/ Pacific Islander	White	Totals
Affected School Districts							
Fort Smith School District	1,462 10.57%	703 5.08%	1,411 10.20%	4,896 35.40%	142 1.03%	5,215 37.71%	13,829 --
Greenwood School District	290 7.47%	72 1.85%	26 0.67%	235 6.05%	66 1.70%	3,193 82.25%	3,882 --
Lavaca School District	60 7.71%	7 0.90%	4 0.51%	53 6.81%	15 1.93%	639 82.13%	778 --
Van Buren School District	515 8.86%	121 2.08%	127 2.19%	1,159 19.94%	85 1.46%	3,804 65.46%	5,811 --
DISTRICT TOTAL	2,327 9.58%	903 3.72%	1,568 6.45%	6,343 26.10%	308 1.27%	12,851 52.88%	24,300 --
Open-Enrollment Public Charter Schools in Affected Area							
Future School of Fort Smith	23 9.5%	2 0.8%	44 18.3%	52 21.6%	4 1.7%	116 48.1%	241 --
CHARTER TOTAL	23 2300.0%	2 0.8%	44 18.3%	52 21.6%	4 1.7%	116 48.1%	241 --
AFFECTED AREA TOTAL	2,350 9.6%	905 3.7%	1,612 6.6%	6,395 26.1%	312 1.3%	12,967 52.8%	24,541 --

Source: ADE Data Center, accessed August 2023

Prepared by:

Shasta Wagner,
Staff Attorney