

# MEMO



ARKANSAS  
DEPARTMENT  
OF EDUCATION

DATE: February 7, 2022  
TO: Charter Authorizer  
FROM: ADE Legal Services Staff  
SUBJECT: Desegregation Analysis of Open Enrollment Charter Application for Premier High School of Texarkana

## I. INTRODUCTION

Premier High School of Little Rock submitted an application for an open-enrollment public charter school, Premier High School of Texarkana. The proposed charter school would be located within the boundaries of the Texarkana. The proposed charter school would provide instruction to students in grades nine through 12 (9-12). The proposed charter school estimates an enrollment of 75 students in its initial year, with an estimated enrollment of 85 students by the 2023 - 2024 school year. According to its application, the proposed charter school expects to draw students from the local school district and surrounding school districts.

## 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 2021-2022 school year, for the traditional public school districts surrounding the proposed location are attached as Exhibit B. There are currently no open-enrollment charter schools in the area.

"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)).

Because Premier High School of Texarkana will draw students from Lafayette County School District and Hope School District, the authorizer must ensure that any act it approves does not hamper, delay, or in any manner negatively affect the desegregation efforts of Lafayette County School District or Hope School District. As 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).

In regard to Lafayette County School District and Hope School District, the United States District Court for the Western District of Arkansas approved a modification of the applicable consent decrees to prohibit school choice. An appeal was taken to the Eighth Circuit which overturned the District Court's modification and returned the cases to the District Court for further consideration. These cases are currently back in the District Court. (See *Turner v. Lewisville (a/k/a Lafayette County Deseg.)*, 4:92-cv-4040 (W.D. Ark.) and *Davis v. Franks*, 4:88-cv-4082 (W.D. Ark.).

As noted above, Lafayette County School District and Hope School District remain under federal court supervision. Therefore, the authorizer should consider whether granting the application will negatively affect Lafayette County School District's or Hope School District's efforts to achieve full unitary status.

Both Lafayette County School District and Hope School District are permitted to participate in school choice. 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.

Responsive Education of Arkansas (Premier High Schools)  
Desegregation Analysis

I. Introduction

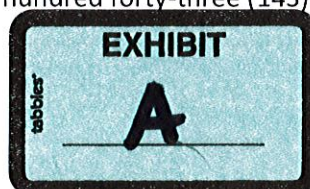
Responsive Education of Arkansas (RES) is seeking an amendment to, among other things, open two (2) new Premier High School (PHS) campuses within the boundaries of the Jonesboro and Texarkana School Districts. Each of the two (2) new campuses will contain Grades 9-12. The projected maximum enrollment for each campus, as of FY 24, will be eighty-five (85) students. The Jonesboro campus, as an open-enrollment public charter school campus unconfined by district boundaries, expects to obtain most of its students from within the boundaries of the Jonesboro (JSD), Brookland (BSD), Greene County Tech (GCTSD), Nettleton (NSD), Valley View (VVSD) and Westside (WSD) School Districts. The Texarkana campus, also as an open-enrollment public charter school campus unconfined by district boundaries, expects to obtain most of its students from within the boundaries of the Texarkana (TSD), Genoa Central (GCSD), Hope (HSD), and Lafayette County (LCSD) School Districts. This analysis is provided to inform the decision making of the charter authorizer regarding the effect, if any, that the opening of new charter school campuses in Jonesboro and Texarkana would have on the efforts of the JSD, BSD, GCTSD, NSD, VVSD, WSD, TSD, GCSD, HSD and the LCSD to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.

II. General Analysis

RES, in this analysis, has carefully reviewed the potential impact that the opening of new charter school campuses in Jonesboro and Texarkana 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, RES has found that neither JSD nor its surrounding school districts listed above (BSD, GCTSD, NSD, VVSD and WSD) are under any court orders concerning their desegregation obligations, and are therefore unitary in all respects of their school operations. As to the Texarkana campus, HSD and LCSD are under federal consent decrees concerning racial discrimination. However, both the HSD and LCSD participate in school choice under the Public School Choice Act of 2015 (Ark. Code Ann. §6-18-1901 et.seq.); neither the TSD nor the GCSD are subject to any federal court orders or consent decrees concerning racial discrimination. Therefore, the opening of new RES charter school campuses in Jonesboro and Texarkana, especially given their small enrollment caps, cannot be said to have a negative impact on the JSD, BSD, GCTSD, NSD, VVSD, WSD, TSD, GCSD, HSD and the LCSDs' ability to comply with their statutory obligations to create and maintain a unitary system of desegregated public schools.

III. PHS Student Information

According to the latest enrollment figures maintained by the DESE Data Center, the PHS Little Rock campus had a student population of one hundred twenty-five (125) students, of whom 80.8 % were Black and 14.1% were White. The PHS North Little Rock campus had a student population of one hundred forty-three (143) students, of whom 71.3% were Black



and 21.7% were White. The PHS Springdale campus had a student population of fifty (50) students, of whom 66% were Black and 30% were White.

IV. Jonesboro Campus Student Information

Concerning the proposed Jonesboro campus, the JSD had a student population of 6,340 students, of whom 46.8% were Black; 33.4 % were White, and 14.4% were Hispanic. The BSD had a student population of 2,818 students, of whom 89.2% were White. The GCTSD had a student population of 3,462 students, of whom 91.6% were White. The NSD had a student population of 3,554 students, of whom 50.3% were Black; 31.5% were White, and 10.7% were Hispanic. The VVSD had a student population of 2,878 students, of whom 83.6% were White; 4.4% were Black, and 4.3% were Hispanic. The WSD had student population of 1,702 students, of whom 92.7% were White. tion of 17,848

V. Texarkana Campus Student Information and Ark. Code Ann. § 6-23-106 Responsibilities

Concerning the proposed Texarkana campus, the TSD had a student population of 3,880 students, of whom 54.8% were Black; 34.1% were White, and 5.5% were Hispanic. The GCSD had a student population of 1,208 students, of whom 95.5% were White. The HSD had a student population of 2,201 students, of whom 44.1% were Black; 33.3% were Hispanic, and 19.4% were White. The LCSD had a student population of 520 students, of whom 60.6% were Black, and 32.1% were White. Ark. Code Ann. §6-23-106 also requires that RES's operation of the charter school campuses will not serve to hamper, delay or in any manner negatively affect the desegregation efforts of a public school district or districts within the state. RES's careful review of the relevant statutes and orders affecting the JSD, BSD, GCTSD, NSD, VVSD, WSD, TSD, GCSD, HSD and the LCSD, and the student populations of such districts, shows that such negative effect is not present here.

VI. Conclusion

In conclusion, RES 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 RES's amendment request to, among other things, open two (2) new PHS open-enrollment public charter school campuses within the boundaries of the Jonesboro and Texarkana School Districts.

	2 or More Races	Asian	Black/ African American	Hispanic	Native Am. Hawaiian/ Pacific Islander	White	Totals
<b>Surrounding School Districts</b>							
Ashdown School District	70 5.39%	3 0.23%	335 25.79%	60 4.62%	6 0.46%	825 63.51%	1,299 --
Hope School District	59 2.68%	8 0.36%	971 44.12%	732 33.26%	3 0.14%	428 19.45%	2,201 --
Spring Hill School District	32 5.52%	1 0.17%	2 0.34%	32 5.52%	4 0.69%	509 87.76%	580 --
Lafayette School District	20 3.85%	0 0.00%	315 60.58%	18 3.46%	0 0.00%	167 32.12%	520 --
Genoa School District	19 1.57%	3 0.25%	7 0.58%	20 1.66%	4 0.33%	1,155 95.61%	1,208 --
Texarkana School District	187 4.82%	14 0.36%	2,127 54.82%	214 5.52%	14 0.36%	1,324 34.12%	3,880 --
<b>DISTRICT TOTAL</b>	<b>574 7.01%</b>	<b>26 0.32%</b>	<b>3,435 41.96%</b>	<b>1,038 12.68%</b>	<b>27 0.33%</b>	<b>3,086 37.70%</b>	<b>8,186 --</b>

Source: ADE Data Center, accessed Feb. 2022

Prepared by:  
Whitney James,  
Staff Attorney

