



MEMO

DATE: August 5, 2023
TO: Charter Authorizer
FROM: ADE Legal Services Staff
SUBJECT: Desegregation Analysis of Open Enrollment Charter Application for Academy of Math and Science - Arkansas

I. INTRODUCTION

Academy of Math and Science (AMS) - Arkansas submitted an application to open a new open-enrollment public charter schools. The charter plans to have a campus in the Little Rock area. The charter intends to provide instruction to kindergarten through eighth grade and will have an enrollment cap of 600 students.

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 application has been received.

IV. ANALYSIS FROM THE DEPARTMENT

Enrollment, as assessed on June 1, 2023, for the traditional public school districts and open-enrollment charter schools in Pulaski county is 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 the Lafayette County School District, *Turner et al. v. Lewisville School District No. 1*, Case No. 92-4040, U.S. Dist. Ct., W.D. Ark., and the Hope School District, *Davis et al. v. Franks*, Case No. 4:88-cv-4082, U.S. Dist. Ct. W.D. Ark. The goal of a desegregation case regarding 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 Little Rock School District and the North Little Rock School District have both been declared unitary. The PCSSD has been declared unitary save for facilities. The JNPSD has also been declared unitary but has ongoing facilities responsibilities.

Because AMS – Arkansas will potentially draws students from Pulaski County, Arkansas, the authorizer must ensure that any act it approves does not hamper, delay, or in any manner negatively affect the desegregation efforts of PCSSD or JNPSD. 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).

As noted above, PCSSD and JNPSD remain under federal court supervision with regard to facilities. Therefore, the authorizer should consider whether granting the application will negatively affect PCSSD or JNPSD’s efforts to achieve full unitary status.

No desegregation-related opposition was received from any of the affected school districts.

V. CONCLUSION

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.

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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 been secured yet, but we will provide this information once a facility has been confirmed.

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.

A facility has not been secured yet, but it is our expectation that the facility will be 100% ADA and IDEA compliant.

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

A facility has not been secured yet, but it is our expectation that 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.

This desegregation analysis is in support of AMS Arkansas' request to be granted a charter for an open-enrollment public charter school located in Little Rock, Arkansas within Pulaski County. The school site will be located within the boundaries of either the Little Rock School District (LRSD); Pulaski County Special School District (PCSSD); or North Little Rock School District (NLRSD); or a combination of the above-listed school districts. Pursuant to Ark. Code Ann. § 6-23-106, AMS Arkansas is required to carefully review the potential impact its operations would have upon the efforts of the LRSD, PCSSD, NLRSD, and Jacksonville North Pulaski School District (JNPSD) to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools. At full enrollment, AMS Arkansas will serve students in grades K-8 with a maximum enrollment cap of 600 students.

I. The Status of Pulaski County Desegregation Litigation

AMS Arkansas is providing this desegregation analysis in accordance with Ark. Code Ann. §6-23-106 to review the potential impact that its charter application would have upon the efforts all four (4) of the Pulaski County 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, AMS Arkansas has substantiated that the LRSD and the NLRSD have been declared unitary in all respects of their school operations. The Pulaski County desegregation litigation was first filed in 1982. Little Rock School District, et al v. Pulaski County Special School District, et al., Case No. 4:82:cv-00866-DPM. In 1989, the parties entered into a settlement agreement (the "1989 Settlement Agreement") under which the Arkansas Department of Education, the then-three (3) Pulaski County school districts and the intervenors agreed to the terms of state funding for desegregation obligations.

LRSD successfully completed its desegregation efforts in 2007 and was declared fully unitary by the federal court in 2007. Little Rock School District v. Pulaski County Special School

District, Case No. 4:82-cv-0866 (E.D. Ark.), Order filed February 23, 2007. In 2010, LRSD filed a motion to enforce the 1989 Settlement Agreement. The motion contended that the operation of open-enrollment public charter schools within Pulaski County interfered with the "M-M Stipulation" and the "Magnet Stipulation." On January 17, 2013, Judge D.P. Marshall Jr. denied LRSD's motion, stating: "The cumulative effect of open-enrollment charter schools in Pulaski County on the stipulation magnet schools and M-to-M transfers has not, as a matter of law, substantially defeated the relevant purposes of the 1989 Settlement Agreement, the magnet stipulation, or the M-to-M stipulation." Little Rock School District v. Pulaski County Special School District, Case No. 4:82-cv-0866 (E.D. Ark.), Order filed January 17, 2013. LRSD appealed to the Eighth Circuit Court of Appeals.

One (1) year later, on January 13, 2014, Judge Marshall approved a Settlement Agreement that included a provision stipulating the voluntary dismissal with prejudice of LRSD's pending appeal concerning the charter school issues. In light of LRSD's unitary status and the parties' 2014 Settlement Agreement, AMS Arkansas' requested charter cannot interfere with the purposes of the Pulaski County desegregation litigation, which has been fully concluded as to LRSD. After the dismissal and the settlement agreement, the case was completely concluded for all purposes as to LRSD, and the federal court terminated all jurisdiction in the matter. Because of that, there is no possibility that AMS Arkansas' requested charter could impact LRSD's unitary status. To be clear, AMS Arkansas' charter application cannot impact LRSD's unitary status because 1) there is no case in which LRSD's unitary status could be an issue; 2) LRSD made a claim regarding the operation of open-enrollment charter schools in federal court in 2010 and lost it; and 3) As a consequence of the 2014 Settlement Agreement, the LRSD released any claims it had concerning the charter school issues. On January 30, 2014, the Court also approved a stipulation among the parties that PCSSD is unitary in the areas of Assignment of Students and Advanced Placement, Gifted and Talented and Honors Programs. Based on the stipulation, the Court released PCSSD from supervision and monitoring in these areas. Thus, as of January 30, 2014, LRSD, NLRSD and PCSSD are unitary in the area of student assignments. On April 4, 2014, the court found that PCSSD is unitary in the areas of Special Education and Scholarships. Subsequently, PCSSD was also found to be unitary in the areas of Staff and Monitoring. Pursuant to Judge Marshall's order on May 6, 2021, both PCSSD and JNPSD are unitary in all areas except School Facilities.

Upon review, AMS Arkansas believes that its request to obtain an open-enrollment public charter shall have no negative effects on the efforts of the PCSSD and JNPSD to attain unitary status.

II. Data

According to the 2021-22 enrollment figures as maintained by the ADE Data Center, LRSD had a student population of 20,786 students, of which approximately 59.9% were African American, 19.6% were White, and 16.0% were Hispanic. NLRSD's student population was 7,685 students, of which approximately 57.2% were African American, 25.8% were White, and 11.5% were Hispanic. PCSSD's student population was 11,265 students, of which approximately 44.4% were African American, 38.6% were White, and 10.2% were Hispanic. JNPSD's student population was 3,846 students, of which approximately 54.8% were African American, 33.9% were White, and 7.5% were Hispanic.

Under Ark. Code Ann. §6-23-306(6)(A), AMS Arkansas must be race-neutral and non-discriminatory in its student selection and admission process. While it is impossible to project

its future racial composition accurately, AMS Arkansas will implement admissions policies that are consistent with state and federal laws, regulations, and/or guidelines applicable to charter schools.

In addition, Ark. Code Ann. §6-23-106 requires that AMS Arkansas' operation 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. As explained in more detail above, AMS Arkansas' careful review of the relevant statutes and court orders affecting the LRSD, NLRSD, PCSSD, and JNPSD and their student populations shows that such negative impact is not present here.

III. Conclusion

AMS Arkansas submits that upon the basis of its review, neither any existing federal desegregation order affecting the PCSSD, LRSD, NLRSD, and JNPSD, nor the 1989 Settlement Agreement prohibit the State's charter school authorizer from granting its application to operate an open-enrollment public charter school within the geographic boundaries of the LRSD, NRLSD, PCSSD, or a combination of those school districts.

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

AMS Arkansas will contract with AMS Impact Group for services for a fee not to exceed 10% of all school revenue. The services provided for this fee are the minimum amount of services the contracted organization will provide.

I. Technology and IT Services

1. Designing overall technology, IT systems, and strategy
2. Assuring alignment of technology purchases with technology strategy
3. Providing staff training on the technology and IT systems
4. Designing overall data collection systems; selecting and/or creating database systems; assuring compatibility and security of systems
5. Managing IT staff at all school sites
6. Conducting research on future growth of technology and IT services and equipment and implementing changes and improvements
7. Website content maintenance and supervision of design

II. Public Relations

1. Developing the public relations strategy for AMS Arkansas
2. Preparing and distributing press releases for AMS Arkansas
3. Conducting regular outreach efforts for AMS Arkansas
4. Engaging firms for PR services as required
5. Attending networking events and conferences as representatives of AMS Arkansas

III. Enrollment Marketing

1. Managing staff for open house events
2. Managing online recruitment platforms including Facebook and Google AdWords and all print advertisements including brochures and postcards

IV. Staff Recruitment and Human Resources

1. Managing the identification of open positions, posting of positions, attendance at recruitment events, all aspects pertaining to the search for new candidates, and hiring

	2 or More Races	Asian	Black/ African American	Hispanic	Native Am. Hawaiian/ Pacific Islander	White	Totals
School Districts in Pulaski County							
Jacksonville North Pulaski School District	202 4.76%	36 0.85%	2,238 52.68%	370 8.71%	22 0.52%	1,380 32.49%	4,248 --
Little Rock School District	136 0.68%	691 3.43%	11,925 59.23%	3,348 16.63%	129 0.64%	3,906 19.40%	20,135 --
N. Little Rock School District	355 4.65%	66 0.86%	4,402 57.62%	938 12.28%	40 0.52%	1,839 24.07%	7,640 --
Little Rock School District	136 0.68%	691 3.43%	11,925 59.23%	3,348 16.63%	129 0.64%	3,906 19.40%	20,135 --
DISTRICT TOTAL	829 1.59%	1,484 2.85%	30,490 58.46%	8,004 15.35%	320 0.61%	11,031 21.15%	52,158 --
Open-Enrollment Public Charter Schools in Pulaski County							
Academics Plus -	57 3.4%	79 4.7%	312 18.5%	74 4.4%	8 0.5%	1,155 68.5%	1,685 --
Capitol City Lighthouse	0 0.0%	0 0.0%	112 89.6%	7 5.6%	0 0.0%	6 4.8%	125 --
E-Stem	184 6.0%	28 0.9%	1,947 63.8%	291 9.5%	5 0.2%	597 19.6%	3,052 --
Exalt Academy	11 2.0%	0 0.0%	118 21.9%	409 75.9%	0 0.0%	1 0.2%	539 --
Jacksonville Lighthouse (Elem., Flightline)	9 1.2%	10 1.4%	496 68.2%	62 8.5%	7 1.0%	143 19.7%	727 --
Lisa Academy	106 3.4%	218 7.0%	1,428 45.7%	773 24.8%	24 0.8%	573 18.4%	3,122 --
Premier High School (NLR)	3 2.1%	1 0.7%	102 71.3%	5 3.5%	1 0.7%	31 21.7%	143 --
Premier High School (LR)	4 3.2%	0 0.0%	101 80.8%	0 0.0%	2 1.6%	18 14.4%	125 --
Founders Classical Academy WLR	8 6.5%	3 2.4%	47 38.2%	5 4.1%	1 0.8%	59 48.0%	123 --
Friendship LR	0 0.0%	0 0.0%	226 84.6%	38 14.2%	1 0.4%	2 0.7%	267 --
Scholarmade	2 0.5%	1 0.3%	375 96.2%	10 2.6%	0 0.0%	2 0.5%	390 --
Westwind School for Performing Arts	2 15.4%	0 0.0%	46 353.8%	2 15.4%	0 0.0%	0 0.0%	13 --
Graduate Arkansas	0 0.0%	0 0.0%	82 58.2%	19 13.5%	5 3.5%	35 24.8%	141 --
CHARTER TOTAL	384 3.7%	340 3.3%	5,346 51.2%	1,693 16.2%	54 0.5%	2,622 25.1%	10,439 --
COUNTYWIDE TOTAL	1,213 1.9%	1,824 2.9%	35,836 57.2%	9,697 15.5%	374 0.6%	13,653 21.8%	62,597

Source: ADE Data Center, accessed June 2023

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