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DATE: October 31, 2023  
TO: Charter Authorizer  
FROM: ADE Legal Services Staff  
SUBJECT: Desegregation Analysis of District Conversion Charter Renewal Application for Academies of West Memphis

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## I. INTRODUCTION

Academies of West Memphis submitted a renewal application for its open enrollment public charter school, Academies of West Memphis. The charter school is located within the boundaries of the West Memphis School District. The charter school provides instruction to students in grades ten through twelve (10-12). The charter school draws students from West Memphis School District.

## 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 regarding 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 data, as of the 2023-2024 school year, for the traditional public school districts in Crittenden County in which the West Memphis School District is located are attached as Exhibit B. There are no open-enrollment charter schools in Crittenden County.

“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 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)).

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).

ADE is not aware of any active desegregation orders in the Crittenden County area and no desegregation-related opposition was received from any of the affected school districts.

#### V. CONCLUSION

ADE has no reason to conclude, from data currently available, that approval of this renewal 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.

## **Section 8: Desegregation Analysis**

**Describe the impact, both current and potential, of the public charter school on the efforts of affected public school district(s) to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.**

The West Memphis School District and the Academies of West Memphis will continue to operate in compliance with all applicable Arkansas laws and will continue to operate in such a manner so as to maintain a desegregated school district, and not impede on any school district's ability to maintain a desegregated school district. The West Memphis School District is not under any court orders concerning the desegregation of its schools.

	2 or More Races	Asian	Black/ African American	Hispanic	Native Am. Hawaiian/ Pacific Islander	White	Totals
<b>School Districts in Crittenden County</b>							
Earle School District	14 3.63%	1 0.26%	354 91.71%	4 1.04%	3 0.78%	10 2.59%	386 --
Marion School District	217 5.58%	37 0.95%	2,222 57.18%	260 6.69%	4 0.10%	1,146 29.49%	3,886 --
West Memphis School District	78 1.69%	20 0.43%	3,633 78.65%	92 1.99%	3 0.06%	793 17.17%	4,619 --
<b>DISTRICT TOTAL</b>	<b>309 3.48%</b>	<b>58 0.65%</b>	<b>6,209 69.83%</b>	<b>356 4.00%</b>	<b>10 0.11%</b>	<b>1,949 21.92%</b>	<b>8,891 --</b>

Source: ADE Data Center, accessed October, 2023

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