



# MEMO

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DATE: September 5, 2023  
TO: Charter Authorizer  
FROM: ADE Legal Services Staff  
SUBJECT: Desegregation Analysis of Open Enrollment Charter Application for Pinecrest Preparatory Academy Fayetteville

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## I. INTRODUCTION

Pinecrest Preparatory Academy Fayetteville submitted an application to open a new open enrollment public charter school. The charter school plans to service grades kindergarten (K) through third (3), sixth (6), and ninth (9) in its first year and progressively add a grade until it reaches grades five (5) through twelve (12). The charter will have a progressive cap beginning with 725 in its first year, before arriving at 2000 by the 2028-2029 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 renewal has been received.

#### IV. ANALYSIS FROM THE DEPARTMENT

Enrollment, as of September 5, 2023, for the traditional public school districts and the open-enrollment charter school in Washington County 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).

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.

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.**

Pinecrest Academy Arkansas anticipates that it will receive most of its students from the Bentonville (BSD), Fayetteville (FSD), Rogers (RSD), and Springdale (SSD) School Districts. As an open-enrollment public charter school, however, Pinecrest Academy Arkansas may enroll students from anywhere within the State of Arkansas. Pursuant to Ark. Code Ann. §6-23-106, Pinecrest Academy Arkansas is required to carefully review the potential impact that its operation would have upon the efforts of the BSD, FSD, RSD, and SSD to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools. At full enrollment, Pinecrest Academy Arkansas will have a student population of 2,000 students in Grades K-12.

Pinecrest Academy Arkansas, in its review, has carefully reviewed the potential impact that the operation of an open-enrollment public charter school within the boundaries of either the BSD or the FSD would have upon the efforts of those 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, Pinecrest Academy Arkansas has found that none of the school districts listed above are under any court orders concerning their desegregation obligations, and are therefore unitary in all respects of their school operations.

Therefore, the granting of an open-enrollment charter to Pinecrest Academy Arkansas to operate its school within the boundaries of the BSD or the FSD cannot be said to have a negative impact on the BSD, FSD, RSD, and the SSD's ability to comply with the districts' statutory obligations to create and maintain a unitary system of desegregated public schools.

According to the latest third-quarter Average Daily Membership enrollment figures as maintained by the DESE Data Center, the BSD had a student population of 18,336 students; the FSD had a student population of 10,258 students; the RSD had a student population of 15,604 students, and the SSD had a student population of 21,756 students. BSD's student population was comprised of 70.55% White students; 11.76% Hispanic students, and 7.75% Asian students. FSD's student population was comprised of 64.44% White students; 12.47% Hispanic students, and 10.32% Black students. RSD's student population was comprised of 47.84% Hispanic students and 42.75% White students. SSD's student population was comprised of 47.88% Hispanic students; 31.95% White students, and 13.7% Hawaiian/Pacific Islander students.

In conclusion, Pinecrest Academy Arkansas 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 its request to operate an open-enrollment public charter school within the boundaries of either the BSD or the FSD.

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

	2 or More Races	Asian	Black/ African American	Hispanic	Native Am. Hawaiian/ Pacific Islander	White	Totals
<b>School Districts in Washington County</b>							
Fayetteville School District	931 8.93%	283 2.71%	1,055 10.12%	1,365 13.09%	212 2.03%	6,580 63.11%	10,426 --
Springdale School District	590 2.71%	326 1.50%	505 2.32%	10,462 47.99%	3,067 14.07%	6,851 31.43%	21,801 --
Elkins School District	99 7.22%	3 0.22%	14 1.02%	83 6.05%	22 1.60%	1,150 83.88%	1,371 --
Greenland School District	55 7.17%	1 0.13%	12 1.56%	63 8.21%	8 1.04%	628 81.88%	767 --
West Fork School District	44 5.47%	6 0.75%	2 0.25%	50 6.22%	17 2.11%	685 85.20%	804 --
Prairie Grove School District	82 3.89%	20 0.95%	26 1.23%	186 8.83%	52 2.47%	1,741 82.63%	2,107 --
Farmington School District	204 7.60%	14 0.52%	81 3.02%	267 9.94%	28 1.04%	2,091 77.88%	2,685 --
Prairie Grove School District	54 5.07%	39 3.66%	8 0.75%	117 10.98%	40 3.75%	808 75.80%	1,066 --
<b>DISTRICT TOTAL</b>	<b>1,878</b> <b>5.39%</b>	<b>651</b> <b>1.87%</b>	<b>1,582</b> <b>4.54%</b>	<b>12,027</b> <b>34.49%</b>	<b>3,341</b> <b>9.58%</b>	<b>15,389</b> <b>44.14%</b>	<b>34,868</b> <b>--</b>
<b>Open-Enrollment Public Charter Schools in Washington County</b>							
Haas Hall Academy	36 8.3%	56 12.9%	16 3.7%	40 9.2%	3 0.7%	282 65.1%	433 --
Haas Hall Academy Jones Center	6 3.9%	7 4.5%	6 3.9%	54 34.8%	3 1.9%	79 51.0%	155 --
Premier High School of Springdale	0 0.0%	1 1.1%	2 2.1%	55 58.5%	2 2.1%	34 36.2%	94 --
Premier High School of Fort Smith	7 11.1%	1 1.6%	8 12.7%	15 23.8%	0 0.0%	32 50.8%	63 --
LISA Academy Springdale	16 4.4%	5 1.4%	20 5.5%	164 45.3%	22 6.1%	135 37.3%	362 --
<b>CHARTER TOTAL</b>	<b>58</b> <b>6.1%</b>	<b>68</b> <b>7.2%</b>	<b>42</b> <b>4.4%</b>	<b>258</b> <b>27.2%</b>	<b>28</b> <b>2.9%</b>	<b>496</b> <b>52.2%</b>	<b>950</b> <b>--</b>
<b>COUNTYWIDE TOTAL</b>	<b>1,936</b> <b>5.4%</b>	<b>719</b> <b>2.0%</b>	<b>1,624</b> <b>4.5%</b>	<b>12,285</b> <b>34.3%</b>	<b>3,369</b> <b>9.4%</b>	<b>15,885</b> <b>44.3%</b>	<b>35,818</b> <b>--</b>

Source: ADE Data Center, accessed September 2023

Shasta Wagner,