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DATE: October 5, 2016  
TO: Charter Authorizer  
FROM: ADE Legal Services Staff  
SUBJECT: Desegregation Analysis of Amendment Request for Arkansas Arts Academy

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## I. INTRODUCTION

Arkansas Arts Academy is an open-enrollment charter school located within the boundaries of the Rogers School District. The school is approved to serve grades kindergarten (12) through twelve (12) with an enrollment cap of 825.

Arkansas Arts Academy is requesting to increase its enrollment cap to 1225.

## II. STATUTORY REQUIREMENTS

Although Ark. Code Ann. § 6-23-106 requires the authorizer to carefully analyze the impact of any new proposed charter school on the efforts of public school districts to achieve and maintain unitary systems, it does not require the authorizer to conduct an analysis of proposed amendments to an existing charter. However, Ark. Code Ann. § 6-23-106(c) states that the State Board "shall not approve any ... 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."

## III. INFORMATION SUBMITTED BY THE APPLICANT AND THE AFFECTED SCHOOL DISTRICT

Arkansas Arts Academy is located within the boundaries of the Rogers School District (RSD) and expects to continue to obtain most of its students from within the boundaries of the RSD and the Bentonville School District (BSD). As of October 1, 2015, the enrollment at Arkansas Arts Academy was 774.

A desegregation analysis submitted by the charter school is attached as Exhibit A. To date, no desegregation-related opposition to the charter amendments has been received.

## IV. DATA FROM THE DEPARTMENT

Enrollment as of October 1, 2015, for the traditional public school districts and open-enrollment charter schools operating in Benton and Washington Counties are as follows:

	2 or More Races	Asian	Black/African American	Hispanic	Native Am. Hawaiian/Pacific Islander	White	Totals
<b>Affected School Districts</b>							
Bentonville School District	612	975	499	1,722	261	11,991	16,060
	3.81%	6.07%	3.11%	10.72%	1.63%	74.66%	--
Decatur School District	2	34	15	193	23	318	585
	0.34%	5.81%	2.56%	32.99%	3.93%	54.36%	--
Elkins School District	9	3	7	74	18	1,020	1,131
	0.80%	0.27%	0.62%	6.54%	1.59%	90.19%	--
Farmington School District	88	17	60	192	20	1,989	2,366
	3.72%	0.72%	2.54%	8.11%	0.85%	84.07%	--
Fayetteville School District	496	363	924	1,164	128	6,577	9,652
	5.14%	3.76%	9.57%	12.06%	1.33%	68.14%	--
Gentry School District	87	120	7	216	78	938	1,446
	6.02%	8.30%	0.48%	14.94%	5.39%	64.87%	--
Greenland School District	28	2	10	50	4	755	849
	3.30%	0.24%	1.18%	5.89%	0.47%	88.93%	--
Gravette School District	41	17	8	102	60	1,581	1,809
	2.27%	0.94%	0.44%	5.64%	3.32%	87.40%	--
Lincoln School District	30	54	9	96	38	976	1,203
	2.49%	4.49%	0.75%	7.98%	3.16%	81.13%	--
Pea Ridge School District	25	5	19	120	15	1,746	1,930
	1.30%	0.26%	0.98%	6.22%	0.78%	90.47%	--
Prairie Grove School District	3	21	26	92	33	1,706	1,881
	0.16%	1.12%	1.38%	4.89%	1.75%	90.70%	--
Rogers School District	244	290	258	6,775	267	7,243	15,077
	1.62%	1.92%	1.71%	44.94%	1.77%	48.04%	--
Siloam Springs School District	161	117	40	1,175	259	2,387	4,139
	3.89%	2.83%	0.97%	28.39%	6.26%	57.67%	--
Springdale School District	301	330	517	9,756	2,608	7,748	21,260
	1.42%	1.55%	2.43%	45.89%	12.27%	36.44%	--
West Fork School District	45	11	12	44	19	957	1,088
	4.14%	1.01%	1.10%	4.04%	1.75%	87.96%	--
<b>DISTRICTS TOTAL</b>	<b>2,172</b>	<b>2,359</b>	<b>2,411</b>	<b>21,771</b>	<b>3,831</b>	<b>47,932</b>	<b>80,476</b>
	<b>2.70%</b>	<b>2.93%</b>	<b>3.00%</b>	<b>27.05%</b>	<b>4.76%</b>	<b>59.56%</b>	<b>--</b>
<b>Open-Enrollment Public Charter Schools in Washington and Benton Counties</b>							
Arkansas Arts Academy	39	12	15	108	16	584	774
	5.0%	1.6%	1.9%	14.0%	2.1%	75.5%	--
Haas Hall Academy	12	27	6	26	6	275	352
	3.4%	7.7%	1.7%	7.4%	1.7%	78.1%	--
Haas Hall Bentonville	7	40	4	25	7	212	295

	2.4%	13.6%	1.4%	8.5%	2.4%	71.9%	--
Ozark Montessori	1	2	4	46	5	78	136
	0.7%	1.5%	2.9%	33.8%	3.7%	57.4%	--
NWA Classical Academy	12	112	9	67	6	345	551
	2.2%	20.3%	1.6%	12.2%	1.1%	62.6%	--
<b>CHARTER TOTAL</b>	<b>71</b>	<b>193</b>	<b>38</b>	<b>272</b>	<b>40</b>	<b>1,494</b>	<b>2,108</b>
	<b>3.4%</b>	<b>9.2%</b>	<b>1.8%</b>	<b>12.9%</b>	<b>1.9%</b>	<b>70.9%</b>	<b>--</b>

Source: ADE Data Center, Oct. 1, 2015 Enrollment

#### IV. ANALYSIS FROM THE DEPARTMENT

“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 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 ADE is unaware of any desegregation orders applicable to the Bentonville, Fayetteville, Gentry, Greenland, Huntsville, Rogers, Gravette, Decatur, Pea Ridge, Siloam Springs, and Springdale school districts, and no desegregation-related opposition has been 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 the proposal 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.

## Desegregation Analysis

Arkansas Arts Academy is located within the boundaries of the Rogers School District (RSD) in Benton County and as an open-enrollment public charter school that is not restricted in its student enrollment by district boundaries, expects to continue to obtain most of its students from within the boundaries of the RSD and the Bentonville School District (BSD).

Arkansas Arts Academy offers this Desegregation Analysis in accordance with the requirements of Ark. Code Ann. §6-23-106 to carefully review the potential impact that the granting of its amendment request would have upon the RSD, BSD and any other school district's ability to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools. Arkansas Arts Academy's amendment request, if granted, would raise its enrollment cap from 825 students to 1,225 students over a three (3)-year period, beginning in the 2017-2018 school year. Because all public school districts in Arkansas from which Arkansas Arts Academy draws students are unitary in student assignment or are otherwise not under any court orders to desegregate, the granting of the requested amendment should have no negative affect on the desegregation efforts of any public school district in this state.

According to the 2015-2016 enrollment figures (the latest enrollment figures available) maintained by the Arkansas Department of Education (ADE) Data Center, the current enrollment of Arkansas Arts Academy is 774 students, which includes 12 Asian, 15 African-American, 108 Hispanic, 39 Two or More Race, 16 Native American and Pacific Islanders, and 584 Caucasian students, and would have no material impact on the racial composition of the public school districts in Benton County. There are 16,060 students enrolled in the Bentonville School District; its student population is approximately 75% Caucasian and approximately 11% Hispanic according to the latest figures maintained by the ADE Data Center. There are 15,077 students enrolled in the Rogers School District, according to the latest figures maintained by the ADE Data Center. The Rogers School District student population is approximately 48% Caucasian and 45% Hispanic. The total enrollment of Arkansas Arts Academy is a little less than 5% of the total enrollment of the Bentonville School District and is approximately 5% of the total enrollment of the Rogers School District. At a maximum student population of 1,225 students, Arkansas Arts Academy's enrollment would be approximately 7.6% of the total enrollment of the Bentonville School District and approximately 8.1% of the total enrollment of the Rogers School District.

Group	Arkansas Arts Academy	Bentonville Public Schools	Rogers Public Schools
<b>2015-2016 Enrollment</b>	<b>774</b>	<b>16,060</b>	<b>15,077</b>
White/Caucasian	75.5%	74.7%	48%
Hispanic	14%	10.7%	45%
Asian	1.6%	6.1%	1.9%
Native American/Pacific Islander	2.1%	1.6%	1.8%
Two or More Races	5.0%	3.8%	1.6%
African American	1.9%	3.1%	1.7%