



# MEMO

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DATE: October 5, 2016  
TO: Charter Authorizer  
FROM: ADE Legal Services Staff  
SUBJECT: Desegregation Analysis of Amendment Request for Kipp Delta - Helena/West Helena

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## I. INTRODUCTION

Kipp Delta of Helena/West Helena is an open-enrollment charter school located within the boundaries of the Helena/West Helena School District (HWHSD). The school is approved to serve grades kindergarten through twelve (K-12) with an enrollment cap of 1100 at the Helena/West Helena campus and 2310 combined for all campuses. Kipp Helena/West Helena is requesting to relocate its elementary school campus to another location within the HWSHD.

## 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

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

## IV. DATA FROM THE DEPARTMENT

The October 1, 2015, enrollment for the traditional public school districts in Phillips County is as follows:

	2 or More Races	Asian	Black/African American	Hispanic	Native Am. Hawaiian/Pacific Islander	White	Totals
<b>Affected School Districts</b>							
Barton-Lexa School District	0 0.92%	7 0.00%	282 92.22%	29 0.77%	4 0.08%	484 6.00%	806 --
Helena/West Helena School District	7 0.50%	13 0.92%	1,270 90.01%	39 2.76%	1 0.07%	81 5.74%	1,411 --
Marvell-Elaine School District	5 1.39%	0 0.00%	316 87.53%	9 2.49%	0 0.00%	31 8.59%	361 --
<b>COMBINED TOTAL</b>	<b>12</b> <b>0.5%</b>	<b>20</b> <b>0.8%</b>	<b>1,868</b> <b>72.5%</b>	<b>77</b> <b>3.0%</b>	<b>5</b> <b>0.2%</b>	<b>596</b> <b>23.1%</b>	<b>2,578</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 active desegregation orders applicable to the Barton-Lexa, Helena/West-Helena, and Marvell-Elaine school 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).

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.



# **KIPP: DELTA**

## **PUBLIC SCHOOLS**

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### **Desegregation Analysis**

KIPP Delta Public Schools (KIPP Helena) is requesting an amendment to authorize it to relocate its elementary school campus in Helena-West Helena to another location still within the Helena-West Helena School District (HWHS). KIPP Helena will continue to comply with all applicable federal and state statutory and regulatory requirements regarding the creation and maintenance of desegregated public schools.

KIPP Helena should continue to have no negative impact on the ability or the efforts of the HWHS or any other Arkansas public school districts to comply with any existing court orders or statutory obligations to create and maintain a unitary system of desegregated public schools. The HWHS has not submitted information to the Arkansas Department of Education (ADE) stating that it is a party to any active desegregation lawsuits. Based upon its careful review pursuant to Ark. Code Ann. §6-23-106, KIPP Helena does not believe that the granting of its requested amendment will hamper, delay or in any way negatively affect the desegregation efforts of the HWHS.

KIPP Helena will continue to comply with all federal and state laws concerning enrollment in a public school and in particular those laws specified to enrollment in a public charter school. The current (September 13, 2016) student population of KIPP's Helena elementary school is 440 students; the current number of students in all of KIPP's Helena campuses is 1,457 students. The 2015-2016 school year student population of the HWHS as maintained by the ADE Data Center (the latest listed on the ADE Data Center's website) is 1,425 students.

KIPP Helena realizes it cannot exclude any student that may wish to attend due to race, gender, ethnicity, or any other prohibited reason. No conclusion can be inferred or drawn against KIPP Helena that there exists any intent to continue to operate a public school, by way of this amendment request, or in practice, that has a purpose or intent to create a racially segregated public school or likewise impact other public schools.