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DATE: March 24, 2022  
TO: Charter Authorizer  
FROM: ADE Legal Services Staff  
SUBJECT: Desegregation Analysis of Open Enrollment Charter Application for Premier High School Online

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## I. INTRODUCTION

Premier High School of Arkansas submitted an application for an open-enrollment public charter school, Premier High School Online. The proposed charter school would be a virtual school that offers onsite support, as-needed, at Premier's existing brick-and-mortar campuses. The proposed charter school would provide instruction to students in grades nine through twelve (9-12). The proposed charter school estimates enrollment of 195 students statewide in its initial year, with an enrollment of 250 by 2024-2025. According to its application, the proposed charter school expects to draw students from all districts in close proximity to its existing locations in Little Rock, North Little Rock, and Springdale.

## 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 amendment request has been received.

### IV. ANALYSIS FROM THE DEPARTMENT

Enrollment, as accessed on March 24, 2022, for the traditional public school districts and the open-enrollment charter schools in Pulaski County and 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 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 Premier 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.

ADE is not aware of any active desegregation orders in Washington County, 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 approval 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.

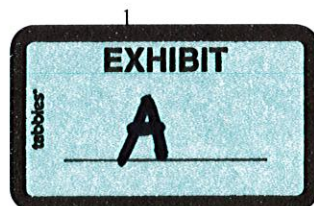
Responsive Education Solutions Amendment Request  
Desegregation Analysis-Hybrid/Virtual Campus

This desegregation analysis is in support of Responsive Education Solutions' (RES) amendment request to open a hybrid/virtual campus (and add an additional building to house the students) to its Premier High Schools of Arkansas (Premier) charter, and to increase its enrollment cap by 250 students from 600 students to 850 students. The entire 250 student enrollment cap increase will be allocated to the new hybrid/virtual campus. RES is required to carefully review the potential impact its operations would have upon the efforts of the Little Rock School District (LRSD), North Little Rock School District (NLRSD), and Springdale School District (SSD), the three (3) school districts in which Premier campuses are currently located, to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools. Premier's hybrid/virtual campus will serve students in grade levels 9-12, the same grade levels currently served by Premier's brick-and-mortar campuses. While the hybrid/virtual school could draw students statewide (just as Premier can now), this analysis is focused on the school districts in which the current Premier campuses are located. Another Premier campus is scheduled for Fort Smith, but it is not included in this analysis as its application is currently still in the authorization process. The hybrid/virtual school's administrative offices are scheduled to be housed in Little Rock (located within the boundaries of the LRSD).

I. The Status of Pulaski County Desegregation Litigation and Springdale School District

RES is providing this desegregation analysis in accordance with Ark. Code Ann. §6-23-106 to review the potential impact that its charter amendment would have upon the efforts of the LRSD and NLRSD to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools. In conducting its review, RES has substantiated that the LRSD and the NLRSD have been declared unitary in all respects of its 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 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 to 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, Premier’s requested charter renewal 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 Premier’s proposed amendment could impact LRSD’s unitary status. To be clear, LISA North’s proposed amendment 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 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. PCSSD thus remains non-unitary in the following three (3) areas of its desegregation plan: 1) Discipline; 2) School Facilities; 3) Student Achievement, and 4) Monitoring. JNPSD is non-unitary in the areas of: 1) Discipline; 2) School Facilities; 3) Staff; 4) Student Achievement, and 5) Monitoring.

RES is unaware of any federal court orders or consent decrees concerning desegregation affecting the Springdale School district. Upon review, RES believes that its request to amend its Premier charter shall have no negative, segregative effects on the LRSD, NLRSD and SSD.

## II. Premier Data

According to the latest enrollment figures as maintained by the ADE Data Center, LRSD’s student population of 20,786 students, of which approximately 60% are Black; 19.6% are White, and 16% are Hispanic. NLRSD’s student population is 7,685 students, of which approximately 57.1% are Black; 25.8% are White, and 11.5% are Hispanic. SSD’s student population is 21,796 students, of which approximately 47.9% are Hispanic; 31.9% are White, and 13.7% are Hawaiian/Pacific Islander. The Premier Little Rock campus’ student population is 125 students, of which approximately 80.8 % are Black and 14.1% are White. The Premier North Little Rock campus’ student population is 143 students, of which approximately 71.3% are Black and 21.7% are White. The Premier Springdale campus’ student population is 50 students, of whom 66% are Black and 30% are White. Under Ark. Code Ann. §6-23-

306(6)(A), RES 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, RES will continue to 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 RES' 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, RES' careful review of the relevant statutes and court orders affecting the LRSD, NLRSD, and SSD and their student populations shows that such negative impact is not present here.

### III. Conclusion

RES submits that upon the basis of its review, neither any existing federal desegregation order affecting the LRSD and NLRSD, nor the 1989 Settlement Agreement prohibit the State's charter school authorizer from granting its amendment request to add a hybrid/virtual school to its charter. RES also submits that it found no evidence of any federal desegregation court order or consent decree affecting the SSD.

	2 or More Races	Asian	Black/ African American	Hispanic	Native Am. Hawaiian/ Pacific Islander	White	Totals
<b>School Districts in Pulaski County</b>							
Jacksonville North Pulaski	75 1.95%	40 1.04%	2,108 54.81%	290 7.54%	31 0.81%	1,302 33.85%	3,846 --
Little Rock School District	152 0.73%	665 3.20%	12,459 59.94%	3,329 16.02%	114 0.55%	4,067 19.57%	20,786 --
N. Little Rock School District	312 4.06%	72 0.94%	4,395 57.19%	880 11.45%	47 0.61%	1,979 25.75%	7,685 --
Pulaski Co. Spec. School District	451 4.00%	266 2.36%	4,998 44.37%	1,146 10.17%	55 0.49%	4,349 38.61%	11,265 --
<b>DISTRICT TOTAL</b>	<b>990 2.27%</b>	<b>1,043 2.39%</b>	<b>23,960 54.98%</b>	<b>5,645 12.95%</b>	<b>247 0.57%</b>	<b>11,697 26.84%</b>	<b>43,582 --</b>
<b>Open-Enrollment Public Charter Schools in Pulaski County</b>							
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%	285 9.3%	11 0.4%	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.,	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 6.6%	3 2.5%	47 38.5%	5 4.1%	1 0.8%	58 47.5%	122 --
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 --
Graduate Arkansas	0 0.0%	0 0.0%	82 58.2%	19 13.5%	5 3.5%	35 24.8%	141 --
<b>CHARTER TOTAL</b>	<b>384 3.7%</b>	<b>340 3.3%</b>	<b>5,346 51.2%</b>	<b>1,687 16.2%</b>	<b>60 0.6%</b>	<b>2,621 25.1%</b>	<b>10,438 --</b>
<b>COUNTYWIDE TOTAL</b>	<b>1,374 2.5%</b>	<b>1,383 2.6%</b>	<b>29,306 54.3%</b>	<b>7,332 13.6%</b>	<b>307 0.6%</b>	<b>14,318 26.5%</b>	<b>54,020</b>

Source: ADE Data Center, accessed March 2022

Prepared by:  
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Staff Attorney



	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	859 8.30%	268 2.59%	1,068 10.32%	1,291 12.47%	194 1.87%	6,669 64.44%	10,349 --
Springdale School District	504 2.31%	312 1.43%	487 2.23%	10,436 47.88%	3,094 14.20%	6,963 31.95%	21,796 --
Elkins School District	89 6.89%	2 0.15%	15 1.16%	74 5.73%	22 1.70%	1,090 84.37%	1,292 --
Farmington School District	184 7.07%	15 0.58%	74 2.84%	249 9.57%	24 0.92%	2,057 79.02%	2,603 --
Greenland School District	41 5.76%	2 0.28%	12 1.69%	56 7.87%	5 0.70%	596 83.71%	712 --
<b>DISTRICT TOTAL</b>	<b>1,677 4.88%</b>	<b>584 1.70%</b>	<b>1,582 4.61%</b>	<b>11,857 34.54%</b>	<b>3,315 9.66%</b>	<b>15,318 44.62%</b>	<b>34,333 --</b>
<b>Open-Enrollment Public Charter Schools in Washington County</b>							
Haas Hall Academy	34 7.5%	52 11.4%	10 2.2%	45 9.9%	1 0.2%	313 68.8%	455 --
Haas Hall Academy Jones Center	10 5.5%	13 7.1%	7 3.8%	51 28.0%	2 1.1%	99 54.4%	182 --
Premier High School	1 2.0%	0 0.0%	1 2.0%	33 66.0%	0 0.0%	15 30.0%	50 --
LISA Academy Springdale	18 5.2%	4 1.2%	18 5.2%	120 34.6%	22 6.3%	165 47.6%	347 --
<b>CHARTER TOTAL</b>	<b>62 6.3%</b>	<b>69 7.0%</b>	<b>35 3.6%</b>	<b>216 22.0%</b>	<b>25 2.5%</b>	<b>577 58.6%</b>	<b>984 --</b>
<b>COUNTYWIDE TOTAL</b>	<b>1,739 4.9%</b>	<b>653 1.8%</b>	<b>1,617 4.6%</b>	<b>12,073 34.2%</b>	<b>3,340 9.5%</b>	<b>15,895 45.0%</b>	<b>35,317 --</b>

Source: ADE Data Center, accessed March 2022  
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