

**BEFORE THE ARKANSAS STATE BOARD OF EDUCATION**

On August 12, 2013, during a regular meeting of the Arkansas State Board of Education, a hearing was conducted pursuant to the legal authority and jurisdiction vested in the Board by the Public School Choice Act of 2013 (Act 1227 of 2013) and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of 2013. Before the Board was the appeal of the Hale family (“Petitioner”) challenging the decision of the Marion School District (“Respondent”) denying their application for transfer of their child under the School Choice Act of 2013.

**FINDINGS OF FACT**

1. The Petitioner family resides in the Hughes School District.
2. On or about May 1, 2013, Petitioner submitted an application to transfer their child to Respondent Marion School District pursuant to the School Choice Act of 2013. On or about July 11, 2013, Respondent denied the Petitioner’s application because the Petitioner’s resident school district, the Hughes School District, already had reached its 3% net maximum limit of students or sibling groups who could transfer out of the school district each year—a cap set forth in the Public School Choice Act of 2013—before receiving the Petitioner’s transfer application.
3. On May 1, 2013, the Arkansas Department of Education published a Commissioner’s Memo that notified each school district of its three-quarter average daily membership (“ADM”) numbers for the 2012-2013 school year. The Memo also contained a calculation indicating for each school district what three percent (3%) of the three-quarter ADM would be. For the Hughes School District, the three-quarter ADM for the

2012-2013 school year was 348.07, meaning that the net three percent (3%) transfer cap was set at eleven (11) students or sibling groups.

4. The Hughes School District received and processed school choice applications as they were received. Fourteen (14) students or sibling groups requested transfer from the school district before the district received the Petitioner family's application.

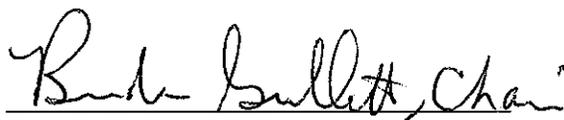
#### **CONCLUSIONS OF LAW**

5. The Public School Choice Act of 2013 establishes a numerical net maximum limit on school choice transfers from a school district of not more than three percent (3%) of the school district's three-quarter ADM for the immediately preceding school year. When determining this percentage, if more than one sibling applies for a transfer, the residential school district is to count that sibling group as one (1) transfer. Because the Hughes School District already had reached this three percent (3%) limit by the time it received the Petitioner's application, the Public School Choice Act of 2013 prohibited Respondent from granting Petitioner's transfer application.

#### **ORDER**

6. Because the Hughes School District reached its 3% transfer cap prior to receipt of the Petitioner's application, the Board denies the Petitioner's appeal.

Signed this 9 day of September, 2013



Brenda Gullett, Chair  
Arkansas State Board of Education