

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

On August 16, 2013, during a special 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 Potthast family (“Petitioner”) challenging the decision of the Alma School District (“Respondent”) denying their applications for transfer of their children under the School Choice Act of 2013.

FINDINGS OF FACT

1. The Petitioner family resides in the Mulberry School District.
2. On or about May 29, 2013, Petitioner submitted applications to transfer three children to Respondent Alma School District pursuant to the School Choice Act of 2013. On or about June 3, 2013, Respondent denied the Petitioner’s applications because the Petitioner’s resident school district, the Mulberry 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 applications.
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 Mulberry School District, the three-quarter ADM for the

2012-2013 school year was 339.50, meaning that the net three percent (3%) transfer cap was set at eleven (11) students or sibling groups.

4. The Mulberry School District received and processed school choice applications as they were received. Because the Mulberry School District accepted transfer applications of three (3) non-resident students or sibling groups to transfer into the District, the District could allow fourteen (14) students or sibling groups to transfer out of the District. Nineteen (19) students or sibling groups requested transfer from the Mulberry School District before the District received the Petitioner's applications.

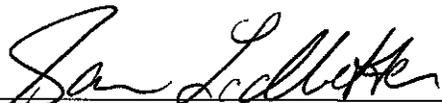
CONCLUSIONS OF LAW

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 Mulberry School District already had reached this three percent (3%) limit by the time it received the Petitioner's applications, the Public School Choice Act of 2013 prohibited the Respondent from granting Petitioner's transfer application.

ORDER

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

Signed this  day of September, 2013



Sam Ledbetter, Acting Chair
Arkansas State Board of Education