

## **BEFORE THE ARKANSAS STATE BOARD OF EDUCATION**

On August 13, 2015, 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 2015 (codified at Ark. Code Ann. § 6-18-1901 et seq.) and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of 2015 and pursuant to the legal authority and jurisdiction vested in the State Board by the Arkansas Opportunity Public School Choice Act (codified at Ark. Code Ann. § 6-18-227) and the Arkansas Department of Education Rules Governing the Opportunity Public School Choice Act. Before the Board was the appeal of the Goodall family ("Petitioner") challenging the decision of the Palestine-Wheatley School District ("Respondent") denying their applications for transfer of their children under the Public School Choice Act of 2015 and denying their applications for transfer of their children under the Arkansas Opportunity Public School Choice Act.

### **FINDINGS OF FACT**

1. The Petitioner resides in the Forrest City School District.
2. On March 26, 2015, the Petitioner submitted Arkansas Public School Choice Act applications ("school choice applications") to the Palestine-Wheatley School District on behalf of their children, A. Goodall and E. Goodall.
3. On April 7, 2015, the Petitioner submitted Arkansas Opportunity School Choice ("opportunity choice applications") to the Palestine-Wheatley School District on behalf of their children, A. Goodall and E. Goodall.
4. On July 27, 2015, the Respondent denied the Petitioner's school choice applications because the Petitioner's resident school district, the Forrest City School District, had declared a conflict with the provisions of the Public School Choice Act of 2015, stating that it is subject to a federal court desegregation order remedying the effects of past racial segregation.
5. The Forrest City School District notified the Department of Education on April 14, 2015, that it remains subject to federal court desegregation orders in the cases of *McKissick, et al. v. Forrest City School District No. 7* (1969), and that it has not yet achieved unitary status.
6. The Respondent also denied the Petitioners opportunity choice applications based on lack of capacity for E. Goodall and on the basis A. Goodall is not attending a school in distress.
7. On or about July 27, 2015, pursuant to Ark. Code Ann. § 6-18-1907(b)(1) and Ark. Code Ann. § 6-18-227(d)(3), the Petitioner requested a hearing before the State Board to appeal the decision of the Respondent to deny the school choice applications and the opportunity choice applications.

**CONCLUSIONS OF LAW**

8. Ark. Code Ann. § 6-18-1906(a)(1) states that if the provisions of the school choice law "conflict with a provision of an enforceable desegregation court order or a district's court-approved desegregation plan regarding the effects of past racial segregation in student assignment, the provisions of the order or plan shall govern." Ark. Code Ann. § 6-18-1906(a)(2) requires that if a school district claims a conflict under subdivision (a)(1) of this section, "the school district shall immediately submit proof from a federal court to the Department of Education that the school district has a genuine conflict under an active desegregation order or active court-approved desegregation plan."

9. The Forrest City School District states it is subject to an enforceable desegregation court order and, as such, asserts a conflict with the Public School Choice Act of 2015. It is not the State Board's role to determine the validity or invalidity of a desegregation order or mandate of a federal court.

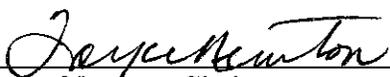
10. The Arkansas Opportunity Public School Choice Act allows students enrolled in or assigned to a public school or school district that has been classified by the State Board of Education as a public school or school district in academic distress the alternative to enroll in a legally allowable public school or school district that is not classified as a public school or school district in academic distress. A school district is authorized to deny a student the ability to transfer if there is a lack of capacity at the student's school or district of choice. A lack of capacity may be claimed by a school district only if the school district has reached the maximum student-to-teacher ratio allowed under federal law, state law, the rules for standards of accreditation, or other applicable regulations. (Ark. Code Ann. § 6-18-227).

**ORDER**

11. Based on Forrest City School District's assertion that it is under an active desegregation court order, the Petitioner's school choice application appeals are hereby denied.

12. Based on lack of capacity for E. Goodall and because A. Goodall is not enrolled or assigned to a public school or school district classified in academic distress, the Petitioner's opportunity choice application appeals are hereby denied.

Signed this 14<sup>th</sup> day of August, 2015

  
Toyce Newton, Chair  
Arkansas State Board of Education