

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

On August 21, 2014, 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 (codified at Ark. Code Ann. § 6-18-1901 et seq.) and the Arkansas Department of Education Rules Governing the Public School Choice Act of 2013. Before the Board was the appeal of the Ballard and Lewis families (“Petitioners”) challenging the decision of the Bentonville School District (“Respondent”) denying their applications for transfer of their children under the Public School Choice Act of 2013.

FINDINGS OF FACT

1. The Petitioner families reside in the Decatur School District.
2. On or about April 8, 2014, Petitioner families submitted applications to transfer four (4) children to Respondent Bentonville School District pursuant to the Public School Choice Act of 2013: K. Ballard, A. Ballard, G. Lewis, and A. Lewis. Of the four (4) applications, one (1) application pertained to a pre-kindergarten student, K. Ballard.
3. On or about July 28, 2014, Respondent denied the applications because approval of the transfers would require the Respondent to exceed capacity in a program, class, grade level, or school building in the Respondent district.
4. On or about August 6, 2014, the Petitioner families appealed Respondent’s denial to the Arkansas State Board of Education.

CONCLUSIONS OF LAW

5. Ark. Code Ann. § 6-18-1903(c) states that the Public School Choice Act of 2013 “does not require a school district to add teachers, staff, or classrooms, or in any way to exceed the requirements and standards established by existing law.”

6. Ark. Code Ann. § 6-18-1903(d)(1) requires a public school district board of directors to “adopt by resolution specific standards for acceptance and rejection of applications” under the Public School Choice Act of 2013. Those standards may include, without limitation, “the capacity of a program, class, grade level, or school building.”

Ark. Code Ann. § 6-18-1903(d)(2)(A).

7. On or about May 20, 2013, the Respondent adopted a district policy that defined “lack of capacity” as:

[W]hen the receiving school has reached the maximum student-to-teacher ratio allowed under federal or state law, the Rules for the Standards of Accreditation, or other applicable rules. There is a lack of capacity if, as of the date of the application for school choice, eighty percent (80%) or more of the seats at the grade level at the nonresident school are filled.

8. The Respondent has the burden of proof in proving the basis for denial of the school choice transfer. Arkansas Department of Education Rules Governing the Public School Choice Act of 2013, Section 10.09.

9. The Public School Choice Act of 2013 does not grant this Board the authority to approve school choice transfer appeals for pre-kindergarten students.

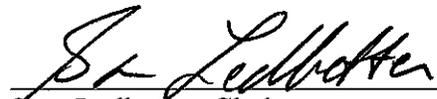
10. The Respondent has not met its burden of proof in proving that it lacks the capacity to accommodate the requested transfers for A. Ballard, G. Lewis, and A. Lewis.

ORDER

11. The Petitioner families' school choice appeal for the pre-kindergarten student, K. Ballard, is hereby denied. The State Board of Education specifically notes that this order only applies to the Petitioner's appeal on behalf of K. Ballard under the Public School Choice Act of 2013. This order should not, in any way, be construed to foreclose the Petitioners and Respondent families from otherwise agreeing upon placement of K. Ballard into a pre-kindergarten program in the Respondent district under other applicable laws or policies.

12. The Petitioner families' school choice appeals for A. Ballard, G. Lewis, and A. Lewis are hereby granted.

Signed this 27th day of August, 2014



Sam Ledbetter, Chair
Arkansas State Board of Education