

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

On August 6, 2015, 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 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. Before the Board was the appeal of the Wheelington family ("Petitioner") challenging the decision of the Emerson-Taylor-Bradley School District ("Respondent") denying their application for transfer of their child under the Public School Choice Act of 2015.

### **FINDINGS OF FACT**

1. The Petitioner resides in the Lafayette County School District.
2. On April 26, 2015, the Petitioner submitted an Arkansas Public School Choice Act application to the Emerson-Taylor-Bradley School District on behalf of their child, C. Wheelington.
3. On May 6, 2015, Respondent denied the Petitioner's application because the Petitioner's resident school district, the Lafayette County 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.
4. The Lafayette County School District notified the Department of Education on April 21, 2015, that it remains subject to a federal court desegregation order in the case of *Turner, et al., v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark. Texarkana Div., and that it has not yet achieved unitary status.
5. On or about May 18, 2015, pursuant to Ark. Code Ann. § 6-18-1907(b)(1), the Petitioner requested a hearing before the State Board to appeal the decision of the Respondent to deny the school choice application.

### **CONCLUSION OF LAW**

6. 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."

7. The Lafayette County 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.

**ORDER**

8. The Petitioner's school choice appeal is hereby denied.

Signed this 13<sup>th</sup> day of August, 2015



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Toyce Newton, Chair  
Arkansas State Board of Education