

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

On July 10, 2014, 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 (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 Allen family (“Petitioner”) challenging the decision of the Heber Springs School District (“Respondent”) denying their application for transfer of their children under the Public School Choice Act of 2013.

### **FINDINGS OF FACT**

1. The Petitioner family resides in the Pangburn School District.
2. On or about May 13, 2014, Petitioner submitted an application to transfer two children to Respondent Heber Springs School District pursuant to the Public School Choice Act of 2013. Respondent denied the application on May 15, 2014, pursuant to Section 4.03 of the Arkansas Department of Education Rules Governing the Public School Choice Act of 2013, which states, “[t]hese rules do 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.”<sup>1</sup> In its letter of denial, the Respondent stated that the denial “is based on expenditures that the district would have, over our required expenditures of [sic] in district students.” Respondent’s denial further stated, “[t]he Heber Springs District has not accepted students from any district that would require an increase in our special education budget.”
3. The Petitioner sent its appeal of Respondent’s denial to the Arkansas Department of Education on or about May 21, 2014. The Petitioner contends that the requested transfer would

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<sup>1</sup> Section 4.03 of the Arkansas Department of Education Rules Governing the Public School Choice Act of 2013 is taken verbatim from Ark. Code Ann. § 6-18-1903(c).

not require the Respondent Heber Springs School District to add teachers, staff, or classrooms. The Petitioner contends that the family's two children do not require special education services. If the children had required those services, the Petitioner asserts that the Respondent's denial would run afoul of the requirements of Ark. Code Ann. § 6-18-1903(d)(3), which states that a receiving school district "shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability."

### **CONCLUSIONS OF LAW**

4. Section 10.09 of the Arkansas Department of Education Rules Governing the Public School Choice Act of 2013 states that during an appeal hearing before the State Board, "[t]he nonresident school district shall have the burden of proof in proving the basis for denial of the transfer."

5. After a thorough review of the documents provided by the parties and the testimony received during the hearing, the State Board determines that the Respondent Heber Springs School District, the nonresident school district in this case, has not met its burden of proof. The Respondent did not demonstrate that granting the Petitioner's application would cause it to add teachers, staff, or classrooms.

### **ORDER**

6. The Petitioner's school choice appeal is hereby granted.

Signed this 24<sup>th</sup> day of July, 2014

  
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Sam Ledbetter, Chair  
Arkansas State Board of Education