AGENDA
STATE BOARD OF EDUCATION

August 6, 2015

Arkansas Department of Education

ADE Auditorium

10:00 AM

Back Print

Work Session

W-1 Act 1240

Immediately following the action agenda, the State Board will conduct a work session regarding Act 1240.

Presenter: *Lori Freno and Mary Perry*

Reports

Report-1 Chair's Report

Presenter: *Toyce Newton*

Report-2 Commissioner's Report

Commissioner Key attached the Attorney General's Opinion concerning certain provisions of Act 560 of 2015, which amended the Public School Choice Act of 2013.

Presenter: *Commissioner Key*

Action Agenda

A-1 Consideration of Appeal from Denial of School Choice Application – Wilson

Pursuant to Ark. Code Ann. § 6-18-1901 et seq. (as amended by Act 560 of 2015) and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of 2015, the Wilson family appeals the decision of the White Hall School District to deny a school choice application for the 2015-2016 school year. The family resides in the Dollarway School District.

Presenter: *Jennifer Davis*

A-2 Consideration of Appeal from Denial of School Choice Applications – Teague, Morton, Lloyd, Green, Gardner, and Wheelington Families

Pursuant to Ark. Code Ann. § 6-18-1901 et seq. (as amended by Act 560 of 2015) and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of 2015, the Teague, Morton, Lloyd, Green, Gardner and Wheelington families appeal the decision of the Emerson-Taylor-Bradley

School District to deny school choice applications for the 2015-2016 school year. The families reside in the Lafayette County School District. The families requested a joint hearing before the State Board of Education.

Presenter: *Jennifer Davis*

A-3 Consideration of Appeal from Denial of School Choice Application – Black

Pursuant to Ark. Code Ann. § 6-18-1901 et seq. (as amended by Act 560 of 2015) and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of 2015, the Black family appeals the decision of the Emerson-Taylor-Bradley School District to deny school choice applications for the 2015-2016 school year. The family resides in the Lafayette County School District.

Presenter: *Jennifer Davis*

A-4 Consideration of Appeal from Denial of School Choice Applications –Vickers, Dean, and Tatom Families

Pursuant to Ark. Code Ann. § 6-18-1901 et seq. (as amended by Act 560 of 2015) and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of 2015, the Vickers, Dean, and Tatom families appeal the decision of the Spring Hill School District to deny school choice applications for the 2015-2016 school year. The families reside in the Lafayette County School District. The families requested a joint hearing before the State Board of Education.

Presenter: *Jennifer Davis*

A-5 Consideration of Appeal from Denial of School Choice Application – Wilkison

Pursuant to Ark. Code Ann. § 6-18-1901 et seq. (as amended by Act 560 of 2015) and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of 2015, the Wilkison family appeals the decision of the Palestine-Wheatley School District to deny school choice applications for the 2015-2016 school year. The family resides in the Brinkley School District.

Presenter: *Jennifer Davis*

A-6 Consideration of Appeal from Denial of School Choice Application – Bashaw

Pursuant to Ark. Code Ann. § 6-18-1901 et seq. (as amended by Act 560 of 2015) and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of 2015, the Bashaw family appeals the decision of the Wynne School District to deny a school choice application for the 2015-2016 school year. The family resides in the Forrest City School District.

Presenter: *Jennifer Davis*

A-7 Consideration of Appeal from Denial of School Choice Application – Justice

Pursuant to Ark. Code Ann. § 6-18-1901 et seq. (as amended by Act 560 of 2015) and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of 2015, the Justice family appeals the decision of the Vilonia School District to deny school choice applications for the 2015-2016 school year. The family resides in the Cabot School District.

Presenter: *Jennifer Davis*

A-8 Consideration of Appeal from Denial of School Choice Application – Martin

Pursuant to Ark. Code Ann. § 6-18-1901 et seq. (as amended by Act 560 of 2015) and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of 2015, the Martin family appeals the decision of the Vilonia School District to deny school choice applications for the 2015-2016 school year. The family resides in the Mayflower School District.

Presenter: *Jennifer Davis*

A-9 Consideration of Appeal from Denial of School Choice Application – Pearson

Pursuant to Ark. Code Ann. § 6-18-1901 et seq. (as amended by Act 560 of 2015) and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of 2015, the Pearson family appeals the decision of the Bentonville School District to deny a school choice application for the 2015-2016 school year. The family resides in the Rogers School District.

Presenter: *Jennifer Davis*

A-10 Consideration of Appeal from Denial of Opportunity School Choice Application – Wooldridge

Pursuant to Ark. Code Ann. § 6-18-227 and the Arkansas Department of Education Rules Governing the Opportunity Public School Choice Act, the Wooldridge Family appeals the decision of the Little Rock School District to deny an Opportunity School Choice Application for the 2015-2016 school year. The family is zoned to attend McClellan High School.

Presenter: *Jennifer Davis*

A-11 Consideration of Appeal from Denial of Opportunity School Choice Application – Cooper

Pursuant to Ark. Code Ann. § 6-18-227 and the Arkansas Department of Education Rules Governing the Opportunity Public School Choice Act, the Cooper Family appeals the decision of the Little Rock School District to deny an Opportunity School Choice Application for the 2015-2016 school year. Family is zoned to attend McClellan High School.

Presenter: *Jennifer Davis*

A-12 Consideration of Appeal of Denial of Opportunity School Choice Application - Sawa

Pursuant to Ark. Code Ann. § 6-18-227 and the Arkansas Department of Education Rules Governing the Opportunity Public School Choice Act, the Sawa Family appeals the decision of the Little Rock School District to deny an Opportunity School Choice Application for the 2015-2016 school year. The family is zoned to attend Henderson Middle School.

Presenter: *Jennifer Davis*

A-13 Consideration of Appeal from Denial of Opportunity School Choice Application – Jackson

Pursuant to Ark. Code Ann. § 6-18-227 and the Arkansas Department of Education Rules Governing the Opportunity Public School Choice Act, the Jackson Family appeals the decision of the Little Rock School District to deny an Opportunity School Choice Application for the 2015-2016 school year. The family is zoned to attend J.A. Fair High School.

Presenter: *Jennifer Davis*

A-14 Consideration of Appeal from Denial of Opportunity School Choice Application – Williams

Pursuant to Ark. Code Ann. § 6-18-227 and the Arkansas Department of Education Rules Governing the Opportunity Public School Choice Act, the Williams Family appeals the decision of the Little Rock School District to deny an Opportunity School Choice Application for the 2015-2016 school year. The family is zoned to attend Hall High School.

Presenter: *Jennifer Davis*

A-15 Consideration of Appeal from Denial of Opportunity School Choice Application – McGruder

Pursuant to Ark. Code Ann. § 6-18-227 and the Arkansas Department of Education Rules Governing the Opportunity Public School Choice Act, the McGruder Family appeals the decision of the Little Rock School District to deny an Opportunity School Choice Application for the 2015-2016 school year. The family is zoned to attend Hall High School.

Presenter: *Jennifer Davis*

State of Arkansas *As Engrossed: H3/12/15 S3/18/15 S3/30/15 S3/31/15*
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1377

By: Representatives Murdock, C. Armstrong, Blake, Broadaway, C. Douglas, K. Ferguson, M.J. Gray, K. Hendren, Leding, G. McGill, Nicks, Richey, Sullivan, Walker, D. Whitaker, Wright

For An Act To Be Entitled

AN ACT TO ALLOW A SCHOOL DISTRICT TO BE GRANTED THE SAME WAIVERS THAT ARE GRANTED TO AN OPEN-ENROLLMENT PUBLIC CHARTER SCHOOL THAT DRAWS STUDENTS FROM THE SCHOOL DISTRICT; AND FOR OTHER PURPOSES.

Subtitle

TO ALLOW A SCHOOL DISTRICT TO BE GRANTED THE SAME WAIVERS THAT ARE GRANTED TO AN OPEN-ENROLLMENT PUBLIC CHARTER SCHOOL THAT DRAWS STUDENTS FROM THE SCHOOL DISTRICT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 15, Subchapter 1, is amended to add an additional section to read as follows:

6-15-103. School district waivers.

(a) A school district may petition the State Board of Education for all or some of the waivers granted to an open-enrollment public charter school that draws students from the school district.

(b) The petition for all or some of the waivers granted to an open-enrollment public charter school that is submitted by a school district shall include:

(1) The name of the open-enrollment public charter school that draws students from the school district;

(2) A copy of the waivers granted to the open-enrollment public

charter school; and

(3) A list of the waivers that the school district seeks to have granted.

(c)(1) The state board shall grant, in whole or in part, or deny, in whole or in part, a petition for a waiver submitted by a school district within ninety (90) days of receiving the petition.

(2) The state board shall notify the superintendent of the school district in writing of the decision of the state board.

(3) A waiver that is granted, in whole or in part, shall be valid for the duration that the waivers are valid for the open-enrollment charter school.

/s/Murdock

APPROVED: 04/08/2015

STATE OF ARKANSAS
THE ATTORNEY GENERAL
LESLIE RUTLEDGE

Opinion No. 2015-051

July 17, 2015

The Honorable Alan Clark
State Senator
P.O. Box 211
Lonsdale, AR 72087

Dear Senator Clark:

This is in response to your request for my opinion concerning certain provisions of Act 560 of 2015, which amended the Public School Choice Act of 2013. As background for your questions, you state:

> The passage of Act 560 of 2015 (Act) made certain amendments to the primary Arkansas laws governing public school choice and poses several questions with regard to the nature and scope of the obligations placed upon the Arkansas Department of Education (ADE) and public school districts.
>
> Section 1 of the Act creates a new § 6-13-113 of the Arkansas Code and requires school districts that are subject to a desegregation [sic] or desegregation order to notify the Department of Education in writing by January 1, 2016. The section also requires a school district that is subject to a desegregation order or a desegregation-related order to include in the written notice certain information.
>
> In Section 6 of the Act, the Act amends Ark. Code Ann. § 6-18-1906, which now states, in pertinent part:
>
> (a)(1) If the provisions of this subchapter conflict with a provision of an enforceable desegregation court order or a district's court-approved desegregation plan regarding the effects of past

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racial segregation in student assignment, the provisions of the order or plan shall govern.

(2) 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 with the interdistrict school choice provisions of this subchapter.

In light of the foregoing background information, you have posed the following questions:

1. What are the legal obligations with which a school district must comply in order to declare a conflict with the interdistrict school choice provisions of the Act?

2. Must a school district provide proof of a conflict on an annual basis?

3. If a school district declares a conflict with the interdistrict school choice provisions of the Act, what obligations, if any, does the ADE have to review a school district's declared conflict to determine whether the school district met the requirements of the Act? Specifically, does the ADE have any obligation or authority to review the information provided by the school district and determine:

   (a) Whether a school district has provided sufficient proof of a conflict with a desegregation order or court-approved desegregation plan?

   (b) Whether the desegregation order or court-approved desegregation plan remain active?

   (c) Whether a genuine conflict exists between the school district's desegregation order or court-approved desegregation plan and the interdistrict school choice provisions of the Act?

(d) Whether it can require a school district to provide additional information or deny a determination of a limitation of the Act until the information is provided?

4. If a school district declares a conflict with the interdistrict school choice provisions of the Act and the ADE is required to make any of the determinations set forth in 3(a)-(c) above, is the ADE required to provide notice of those determinations? And, if so:

   (a) To whom must the notice be provided?

   (b) May a student or a student's parent(s) continue to make application for school choice transfer under the interdistrict school choice provisions of the Act if the ADE has not made, and provided notice of, any of the determinations set forth in 3(a)-3(c) above?

   (c) May a nonresident district accept applications for school choice transfer from a student who resides in a school district which declares a conflict with the interdistrict school choice provisions of the Act if the ADE has not made, and provided notice of, any of the determinations set forth in 3(a)-3(c) above?

5. What is the applicability, if any, of Section 1 of the Act (§ 6-13-113) with regard to the remainder of the Act? Is the section simply a notice requirement for a school district that does not, alone, constitute a declaration that a school district has a conflict with any interdistrict school choice provisions governed by the remainder of the Act?

RESPONSE

With respect to Question 1, the legal obligations on a school district to be able to claim a conflict with the Public School Choice Act are clear in the statute. The answer to Question 2 is "no," in my opinion. As to Question 3, in my opinion, the Arkansas Department of Education does not have the authority to take the actions about which you have inquired. Question 4 is moot in light of my response to Question 3. It is my opinion in response to Question 5 that simply providing the information required by section 1 of Act 560 of 2015, to be codified at Ark. Code

Ann. § 6-13-113, would not, by itself, serve as a claim of conflict under Ark. Code Ann. § 16-18-1906(a)(2), as amended by Act 560.

DISCUSSION

Before addressing your questions, I will summarize the relevant portions of what is now called the Public School Choice Act of 2015[1] ("the Public School Choice Act"), as well as the relevant changes made to that act by Acts 2015, No. 560 ("Act 560"). The Public School Choice Act[2] sets forth a public school choice program that is obligatory for each school district[3] unless certain statutory limitations apply.[4] One of those limitations is if the transfer conflicts "with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district."[5] The statute states that "[i]f the provisions of this subchapter 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 [court] order or plan shall govern.*"[6]

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[1] Ark. Code Ann. § 6-18-1901 *et seq.* (Repl. 2013), *as amended by* Acts 2015, No. 560. Act 560 went into effect on March 20, 2015.

[2] By way of background, in 2012, a federal district court declared an earlier enactment—the Public School Choice Act of 1989 (formerly codified at Ark. Code Ann. § 6-18-206 (2012) *repealed by* Acts 2013, No. 1227)—unconstitutional because of the law's explicit race-based exception to interdistrict transfers. *See Teague v. Ark. Bd. of Educ.*, 873 F. Supp. 2d 1055 (W.D. Ark. 2012), *vacated by Teague v. Cooper*, 720 F.3d 973 (8th Cir. 2013). The 1989 law provided, with certain exceptions, that "[n]o student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that percentage in the student's resident district...." Ark. Code Ann. § 6-18-206(f)(1) (2012). The court's ruling led the General Assembly in 2013 to repeal section 6-18-206 and to enact a new public school choice law. *See* Acts 2013, No. 1227.

[3] *See* Ark. Code Ann. § 6-18-1903(b) (Repl. 2013) ("Each school district shall participate in a public school choice program consistent with this subchapter.")

[4] These limitations are found at Ark. Code Ann. § 6-18-1906 *as amended by* Act 560.

[5] Ark. Code Ann. § 6-18-1901(b)(3) (Repl. 2013).

[6] Ark. Code Ann. § 6-18-1906(a) (Repl. 2013) (renumbered as subsection (a)(1) by Act 560) (emphasis added).

One significant change made by Act 560 to the Public School Choice Act was an attempt to require proof from a school district that wishes to claim an exemption from the Public School Choice Act because of a desegregation-related court order. Before Act 560, a school district that wished to exempt itself from school choice needed only to declare annually that "the school district is subject to the desegregation order ... remedying the effects of past racial segregation."[7] This declaration was irrevocable for one year and could be renewed each year by notice to the ADE. A school district's board of directors also had the option, after an exemption year, "to elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program."[8]

Act 560, however, repealed that provision and added a new subsection that states:

> 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 with the interdistrict school choice provisions of this subchapter.[9]

This new language imposes more of a burden on a school district. It is no longer sufficient for a school district to simply declare itself exempt because of a court's desegregation order. Now, the school district seeking exemption must submit to the ADE "proof from a federal court [of] a genuine conflict" with such an order. Act 560, however, provides no guidance as to what would be both necessary and sufficient to constitute such "proof" from a federal court. It is similarly silent as to what the ADE is supposed to do with such proof once it is submitted.

Act 560 also added a new section within the general provisions chapter regarding school districts.[10] That section requires a school district to provide the ADE written notice by January 1, 2016 that the district is subject to a desegregation or

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[7] Ark. Code Ann. § 6-18-1906(b) (Repl. 2013).

[8] *Id.*

[9] Act 560, § 6 at p. 5 (to be codified at Ark. Code Ann. § 6-18-1906(a)(2)).

[10] *Id.* at § 1 (to be codified at Ark. Code Ann. § 6-13-113).

desegregation-related order.[11] This notice also must contain certain information about that school district's existing desegregation orders.[12] Moreover, that section requires school districts that are released from court supervision related to such orders to "promptly notify" the ADE.[13] Additionally, the ADE is to post all such written notifications on its website.[14] School districts that fail to meet these requirements will be deemed in violation of state accreditation standards.[15]

With this summary of the law and the relevant changes brought by Act 560 in mind, I will now respond to your particular questions.

Question 1: What are the legal obligations with which a school district must comply in order to declare a conflict with the interdistrict school choice provisions of the Act?

In my opinion, Act 560 makes clear what a school district must do if it claims a conflict with the provisions of the Public School Choice Act. 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 with the interdistrict school choice provisions of this subchapter."[16] Beyond stating this obligation, however, the statute is silent. As noted above, there is no indication or guidance as to what would be both necessary and sufficient to constitute such "proof from a federal court."

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[11] *Id.* (to be codified at Ark. Code Ann. § 6-13-113(a)).

[12] *Id.* (to be codified at Ark. Code Ann. § 6-13-113(b)). The information required by the statute comprises 1) a copy of the court's desegregation or desegregation-related order; 2) the case heading and case number of each case in which the order was entered; 3) the name and location of each court with jurisdiction over such orders; and, 4) a description of the school choice student transfer obligations related to such order to which the school district may be subject.

[13] *Id.* (to be codified at Ark Code Ann. § 6-13-113(c)).

[14] *Id.* (to be codified at Ark Code Ann. § 6-13-113(e)).

[15] *Id.* (to be codified at Ark Code Ann. § 6-13-113(d)).

[16] Act 560 at § 6, p. 5 (to be codified at Ark. Code Ann. § 6-18-1906(a)(2)). The Public School Choice Act places other limitations on school districts' abilities to accept school choice transfers, such as a numerical net maximum limit on such transfers. *See id.* at § 6, p. 6 (to be codified at Ark. Code Ann. § 6-18-1906(b)). Because the other limitations do not appear to be the focus of your inquiry, I only mention them here.

Question 2: Must a school district provide proof of a conflict on an annual basis?

"No," in my opinion. The Public School Choice Act, as amended by Act 560, contains no language requiring annual declarations or renewals. As stated above, Act 560 repealed the law granting school districts the option to declare an exemption from school choice each year.[17]

Moreover, as a practical matter, there would be no need for a school district to resubmit its proof of a conflict. A court's desegregation order to a school district remains in place, as written, until it is lifted, modified or, by its own terms, comes to an end. A lower court's order also could be overturned or vacated by a higher court. Absent such a change, however, the school district's conflict remains.

Question 3: If a school district declares a conflict with the interdistrict school choice provisions of the Act, what obligations, if any, does the ADE have to review a school district's declared conflict to determine whether the school district met the requirements of the Act? Specifically, does the ADE have any obligation or authority to review the information provided by the school district and determine (a) whether a school district has provided sufficient proof of a conflict with a desegregation order or court-approved desegregation plan; (b) whether the desegregation order or court-approved desegregation plan remain active; (c) whether a genuine conflict exists between the school district's desegregation order or court-approved desegregation plan and the interdistrict school choice provisions of the Act; and (d) whether it can require a school district to provide additional information or deny a determination of a limitation of the Act until the information is provided?

This question seems to boil down to whether the ADE can or must make a determination as to the veracity of a school district's claim of a conflict and/or the adequacy of the "proof" it has submitted. The question also asks whether the ADE can require a school district to provide additional information (presumably if the proof is in some way deemed "insufficient") or deny a school district's excusal from the Act until the information is provided.

In my opinion, the ADE is neither authorized nor obligated to take the actions contemplated. As mentioned above, the law is silent on what, if anything, the

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[17] *See* text accompanying notes 7-9 *supra*.

ADE is supposed to do with the "proof" that a school district submits. The Public School Choice Act, as amended by Act 560, does not charge the ADE to undertake to verify a school district's claim of exemption[18] or make a determination as to the sufficiency or truth of the proof submitted.[19] Nor has my research yielded any other law assigning such a role to the ADE.

I will note that this may raise a problematic aspect of the new law. Suppose, for instance, a school district submits "proof" that is patently inadequate to show a "genuine conflict" with the Public School Choice Act. I see no clear procedure under the law for challenging such a submission. I can speculate that a parent of a student would mount a challenge by seeking relief from a court of competent jurisdiction in such a case. But the law is not clear in this regard, suggesting the need for legislative clarification.

Question 4: If a school district declares a conflict with the interdistrict school choice provisions of the Act and the ADE is required to make any of the determinations set forth in 3(a)-(c) above, is the ADE required to provide notice of those determinations? And, if so: (a) To whom must the notice be provided; (b) May a student or a student's parent(s) continue to make application for school choice transfer under the interdistrict school choice provisions of the Act if the ADE has not made, and provided notice of, any of the determinations set forth in 3(a)-3(c) above; and (c) May a nonresident district accept applications for school choice transfer from a student who resides in a school district which declares a conflict with the interdistrict school choice provisions of the Act if the ADE has not made, and provided notice of, any of the determinations set forth in 3(a)-3(c) above?

This question is rendered moot in light of my response to Question 3. As a

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[18] It is my understanding that the ADE takes the position that it is neither authorized nor equipped to construe federal court desegregation orders issued to individual school districts for the purposes of the Public School Choice Act.

[19] The ADE does not appear to assume this authority either, according to its proposed "Rules Governing the Public School Choice Act of 2015," found at http://www.arkansased.gov/public/userfiles/Legal/Legal-Pending%20Rules/Public_School_Choice_Draft_for_Public_Comment_April_2015.pdf (last accessed June 10, 2015). It is well established that the construction of a state statute by an administrative agency, while not binding, is afforded great deference by the courts and will not be overturned unless it is clearly wrong. *See e.g.*, *Brookshire v. Adcock*, 2009 Ark. 207, 307 S.W.3d 22, 26; *Ford v. Keith*, 338 Ark. 487, 494, 996 S.W.2d 20, 25 (1999).

general matter, however, I will note that the ADE has no notification responsibilities to parents of students under the Public School Choice Act.

Question 5: What is the applicability, if any, of Section 1 of the Act (§ 6-13-113) with regard to the remainder of the Act? Is the section simply a notice requirement for a school district that does not, alone, constitute a declaration that a school district has a conflict with any interdistrict school choice provisions governed by the remainder of the Act?

Upon codification as Ark. Code Ann. § 6-13-113, section 1 of Act 560 will be found in chapter 13 of Title 6, whereas the Public School Choice Act is found in chapter 18. Thus, standing alone, section 1 of Act 560 will not be found as part of the Public School Choice Act. However, that section does have a tangential relation to the Public School Choice Act. One of the pieces of information it requires school districts to submit to the ADE by January 1, 2016 is a "description of the school choice transfer obligations, if any, the school district is subject to, related to that [desegregation] order."[20]

As to whether the submission required by section 1 of Act 560 would, by itself, serve as the claim of a conflict under Ark. Code Ann. § 6-18-1906, the answer is "no," in my opinion. The language of Ark. Code Ann. § 6-18-1906, as amended by Act 560, requires that a school district claiming a conflict with the Public School Choice Act because of a court desegregation order take an action to assert such conflict by submitting "proof" from a federal court to the ADE. Again, what constitutes such "proof" and how its sufficiency and veracity is to be determined are matters left unaddressed by the Public School Choice Act, as amended by Act 560.

Assistant Attorney General Ray Pierce prepared this opinion, which I hereby approve.

Sincerely,

LESLIE RUTLEDGE
Attorney General

LR/RP:cyh

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[20] Act 560, § 1 (to be codified at Ark. Code Ann. § 6-13-113(b)(4)).

HEARING PROCEDURES

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

COPY

June 3, 2015

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

LaQuita Wilson
[redacted]
Pine Bluff, AR 71601

Ms. Patsy Hughey, Superintendent
Dollarway School District
4900 Dollarway Road
Pine Bluff, AR 71602

Dr. Larry E. Smith, Superintendent
White Hall School District
1020 West Holland Avenue
White Hall, AR 71602-9632

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is tentatively scheduled to hear the above-referenced appeal(s) on **Thursday, July 9, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on June 19, 2015**.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

/signed/

Jeremy C. Lasiter
General Counsel

cc: Mr. Johnny Key, Commissioner of Education
Ms. Annette Barnes, Asst. Commissioner, Public School Accountability
State Board of Education Office

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

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APPEAL

May 14, 2015

RECEIVED
COMMISSIONER'S OFFICE
MAY 18 2015
DEPARTMENT OF EDUCATION

ARKANSAS STATE BOARD OF EDUCATION
Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capital Mall
Little Rock, Arkansas 72201

RECEIVED
ATTORNEY'S OFFICE
MAY 18 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

To Whom It May Concern:

This communication is for the purpose of appealing the decision the White Hall School District has made to reject the School Choice Application for L'[redacted] Wilson. The District has denied my child's application stating that the Dollarway School District would not be participating in school choice for the 2015-16 academic year because "my child's resident district has declared itself exempt from the provisions of the School Choice Law due to it being under an enforceable desegregation order." I was also told verbally by the Dollarway Administration that it would cost them (the School) to lose funding. However, I adamantly feel that the education of the child should be first and foremost (paramount) in any decision made regarding the best interest of the child (not money/funding).

In addition, it is a fact that the Dollarway School District has had many state and internal issues causing the school to become unstable in both academics and morale. Further evidence of the need for my child to be in the White Hall School District is the fact that I already have three (3) children (siblings) in this District who have been attending for the last three (3) years with high academic status. L[redacted] will be an incoming Kindergarten student, if accepted, and will have the privilege of attending the same school district as her siblings with the opportunity of receiving a quality education giving her every chance to become a productive citizen of the county, city, and state in which she resides.

Thanking you in advance for you prompt response to this appeal. If you should need further information and / or clarification in regard to this matter, please feel free to contact me at (870) 329-7201.

Sincerely,

LaQuita Wilson

Mrs. LaQuita Wilson, Mother
Concerned Parent

Lawson
[redacted]
Pine Bluff, AR 71601

LITTLE ROCK AR 722
14 MAY 2015 PM 2 L

ARKANSAS STATE BOARD OF EDUCATION
Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capital Mall
Little Rock, Arkansas 72201

72201101999

May 14, 2015

RECEIVED
COMMISSIONER'S OFFICE
MAY 22 2015
DEPARTMENT OF EDUCATION

ARKANSAS STATE BOARD OF EDUCATION
Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capital Mall
Little Rock, Arkansas 72201

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LaQuita Wilson

Mrs. LaQuita Wilson, Mother
Concerned Parent

RECEIVED
ATTORNEY'S OFFICE
MAY 22 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

White Hall School District
1020 West Holland
White Hall, AR 71602

May 11, 2015

Laquita Wilson
[redacted]
Pine Bluff, AR 71602,

I am sorry, but the School Choice Application(s) of 2015 you submitted for L'[redacted] Wilson has been rejected for the following reason.

__X__ Your child's resident district has declared itself exempt from the provisions of the School Choice Law due to it being under an enforceable desegregation order.

_____ Your child's resident district has reached its limitation cap for allowable transfers and we cannot accept any additional school choice transfers from that district.

As noted in your original application, you have 10 days from receipt of this notice in which to appeal this decision to the Arkansas State Board of Education.

Respectfully,

Dr. Larry Smith, Superintendent

Dollarway School District

Administration

Patsy Hughey,
Interim Superintendent
•
Dr. Melvin Bryant
Asst. Superintendent
•
Barbara Boyce
LEA Supervisor
•
Karen Scott
Chief Finance Officer

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Dollarway Middle
School
Principal
Yolanda Prim
870-534-5243
•
Dollarway High
School
Interim Principal
Gabriel Jackson
870-534-3878

April 30, 2015

Dr. Larry Smith
White Hall School District
1020 West Holland
White Hall, AR 71602

Dear Dr. Smith,

This letter is to notify White Hall School District, for the 2015-2016 school year, Dollarway School District is declaring exemption for school choice.

Sincerely,

Patsy A. Hughey

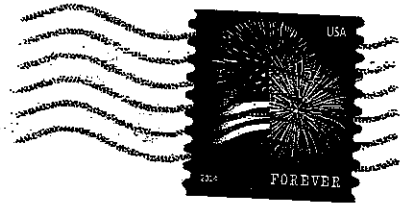
Patsy A. Hughey, Ed.S
Interim Superintendent

lft

4900 Dollarway Road • Pine Bluff, Arkansas 71602
(Phone) 870-534-7003 (Fax) 870-534-7859
dollarway.org

LaQuita Wilson
[redacted]
Pine Bluff, AR 71601

LITTLE ROCK AR 722
20 MAY 2015 PM 3 L



Office of the Commissioner
Attn: Arkansas Public School Choice Act Appeals

Four Capitol Mall
Little Rock, AR 72201

72201101999

RESPONSE

WHITE HALL SCHOOL DISTRICT NO. 27

1020 West Holland Avenue
White Hall, Arkansas 71602-9632
Phone 870-247-2002
Fax 870-247-3707

DR. LARRY SMITH
Superintendent

BILL MITCHELL
Assistant Superintendent

DOROTHY WELCH
Assistant Superintendent

HEATH BENNETT
Assistant Superintendent

RECEIVED
COMMISSIONER'S OFFICE
MAY 26 2015
DEPARTMENT OF EDUCATION

Office of the Commissioner
Attn: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

RECEIVED
ATTORNEY'S OFFICE
MAY 26 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

May 19, 2015

Commissioner Key,

This letter is in response to Mr. Jeremy Lasiter's email regarding an appeal of a rejection of an Arkansas Public School Choice Act Appeal that was sent by my office to Ms. LaQuita Wilson. She has a child who will be entering Kindergarten in the Fall of 2015. According to a letter received by the White Hall School District and another letter posted on the Arkansas Department of Education's website, the Pine Bluff Dollarway School District has exercised its right to opt out of School Choice due to a Federal Court Desegregation Order that was issued in the Cato vs. Parham Case ruling handed down on November 8, 1968.

Although a provision of Act 560 from 2015 allows siblings to enroll if they fill out a school choice application, another provision of Act 560 allows for Dollarway to opt out. The White Hall School District will not of its own accord violate a Federal Desegregation Order and has chosen to reject Ms. Wilson's request to enroll her Kindergarten student in our district.

I have attached a copy of the Wilson's School Choice Application, a report from the Jefferson County Assessor's office indicating that the address is in fact a Pine Bluff Dollarway School District address, a copy of the rejection letter that was sent to Ms. Wilson, a copy of the letter that my office received from the Pine Bluff Dollarway School District indicating that they were exercising their option to declare an exemption to school choice, and a copy of the letter posted on the Arkansas Department of Education's website stating that the Pine Bluff Dollarway School District has notified ADE of its exemption and court case name and other pertinent information. If you have further questions, I will be glad to assist.

Sincerely,

Larry E. Smith, EdD.
Superintendent

#4

3

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT
"ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"
(Must Be Submitted to Non-Resident District)

APPLICANT INFORMATION

Student Name: L[redacted] Wilson

Student Date of Birth: [redacted] Gender Male ☐ Female ☑

Grade: Kindergarten

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☑

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: Dollarway School District County Name: Jefferson

Address: 4900 Dollarway Rd. Pine Bluff, AR 71602

Phone: (870) 534-7003

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: White Hall School District County Name: Jefferson

Address: 1020 W. Holland St. White Hall, AR 71602

Phone: (870) 247-2002

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015? yes

J[redacted] Wilson - White Hall High School On[redacted] Wilson - Moody Elem.

Ty[redacted] Wilson - White Hall Middle School

PARENT OR GUARDIAN INFORMATION

Name: LaQuita Wilson	Home Phone [redacted]
Address: [redacted]	Work Phone: [redacted]

Parent/Guardian Signature: LaQuita Wilson	Date: 4/2/15

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY

Date and Time Received by Resident District:	Date and Time Received by Nonresident District: APR 02 P.M. 3:20 J. Owings
Resident District LEA #:	Nonresident District LEA#: 3510000
Student's State Identification #:	

Application	Accepted		Rejected	X

Reason for Rejection (If Applicable):

Dollarway opted out of School Choice.

Date Notification Sent to Parent/Guardian of Applicant:

Date Notification Sent to Resident District: MAY 11 A.M.

MAY 11 A.M.

Parcel: 930-48154-000
As of: 5/4/2015 ID: 45698

Jefferson County Report

Property Owner

Name: BREAMSEY TOMMY L SR & JACKIE F

Mailing Address: [redacted] PINE BLUFF, AR 71602

Type: (RI) - Res. Improv.

Tax Dist: (021) - 2 DOLLARWAY

Millage Rate: 57.40

Legal: S 1/2 OF E 1/2 LOT 11

Property Information

Physical Address: [redacted]

Subdivision: OAK PARK ADD

Block / Lot: -- / 011

S-T-R: 36-05-10

Size (in Acres):

Market and Assessed Values:

	Estimated Market Value	Full Assessed (20% Market Value)	Taxable Value
Land	$3,000	$600	$600
Building	$23,600	$4,720	$4,720
Total	$26,600	$5,320	$5,320

Homestead Credit: 0.00 **Status:** (V) - Verify **Note:** Tax amounts are estimates only. Contact the county/parish tax collector for exact amounts.

Special Assessments:

Assessment	Tax Amount
HARDING DRAIN IMP. DISTR.	$1.44
Totals:	$1.44

Land:

Land Use	Size	Units
72.6*150	1.000	House Lot

Deed Transfers:

Date	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
7/30/2014			IN			BREAMSEY TOMMY L SR & JACKIE F		
11/24/2008	861	784		66.00	$20,000		Unval.	Improved

White Hall School District
1020 West Holland
White Hall, AR 71602

May 11, 2015

Laquita Wilson
[redacted]
Pine Bluff, AR 71602,

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Dollarway School District

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April 30, 2015

Dr. Larry Smith
White Hall School District
1020 West Holland
White Hall, AR 71602

Dear Dr. Smith,

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Sincerely,

Patsy A. Hughey

Patsy A. Hughey, Ed.S
Interim Superintendent

4900 Dollarway Road • Pine Bluff, Arkansas 71602
(Phone) 870-534-7003 (Fax) 870-534-7859
dollarway.org

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April 29, 2015

RECEIVED
COMMISSIONER'S OFFICE
MAY - 4 2015
DEPARTMENT OF EDUCATION

Johnny Key, Commissioner
Arkansas Department of Education
Office of Commissioner
Four Capital Mall
Little Rock, AR 72201

Re: Arkansas Public School Choice Act

Dear Commissioner Key,

This letter is to notify the Arkansas Department of Education, in accordance with Act 560 of 2015, the Dollarway School District has been operating under a Federal Court Desegregation Order since November 8, 1968 in the ruling handed down from the United States District Court for Eastern Arkansas Case No. PB-67-c-69 and Case No. Civ. A. No. 3680 in the Extension of Dove vs. Parham. The case was titled Cato vs. Parham.

Accordingly, the Dollarway School District desires to declare an exemption from participating in Act 560, of 2015, The Public School Choice Act of 2015.

Sincerely,

Patsy A. Hughey

Mrs. Patsy A. Hughey
Interim Superintendent

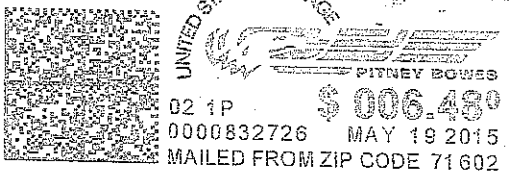
RECEIVED
ATTORNEY'S OFFICE
MAY 04 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

4900 Dollarway Road • Pine Bluff, Arkansas 71602
(Phone) 870-534-7003 (Fax) 870-534-7859
dollarway.org

WHITE HALL SCHOOL DISTRICT NO. 27
1020 WEST HOLLAND AVENUE
WHITE HALL, ARKANSAS 71602-9632

CERTIFIED MAIL™

7012 2210 0001 7112 8896



Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

7220110199 9

ASSOCIATED DOCUMENTS

Dollarway School District

Administration

Patsy Hughey,
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April 29, 2015

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DEPARTMENT OF EDUCATION
GENERAL DIVISION

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(Phone) 870-534-7003 (Fax) 870-534-7859
dollarway.org

Enter Search Terms

Search

Dove v. Parham, 176 F. Supp. 242 (E.D. Ark. 1959)

U.S. District Court for the Eastern District of Arkansas - 176 F. Supp. 242 (E.D. Ark. 1959)
October 8, 1959

176 F. Supp. 242 (1959)

Earnestine DOVE, A Minor, Age 16, by her Father and Next Friend, William Dove, James Edwards Warfield, A Minor, Age 13, by his Father and Next Friend, New James Warfield, Corliss Smith, A Minor, Age 12, by her Mother and Next Friend (Mrs.) Sarah Smith, Plaintiffs,

v.

Lee PARHAM, President of Board of Directors, Dollarway School District Number 2, Jefferson County, Arkansas, Joe Pierce, Secretary, Board of Directors, Dollarway School District Number 2, Jefferson County, Arkansas, Robert Bryant, Member of Board of Directors, Dollarway School District Number 2, Jefferson County, Arkansas, Carl Purnell, Member of Board of Directors, Dollarway School District Number 2, Jefferson County, Arkansas, Orville Phillips, Member of Board of Directors, Dollarway School District Number 2, Jefferson County, Arkansas, Charles L. Fallis, Superintendent of Public Schools, Dollarway School District Number 2, Jefferson County, Arkansas, and the Dollarway School District Number 2, A Corporation, Defendants.

Civ. A. No. 3680.

United States District Court E. D. Arkansas, W. D.

July 31, 1959.

Affirmed in Part and Reversed in Part October 8, 1959.

***243** Robert L. Carter, New York City, and George Howard, Jr., Pine Bluff, Ark., for plaintiffs.

Mehaffy, Smith & Williams, Herschel H. Friday, Jr., and Robert V. Light, Little Rock, Ark., for defendants.

Affirmed in Part and Reversed in Part October 8, 1959. See 271 F.2d 132.

BECK, District Judge.

This is a class action[1], in equity, brought by school-age children of the Negro race and their parents and others similarly situated, as plaintiffs, against the members of the Board of Directors of the Dollarway School District No. 2, Jefferson County, Arkansas, and that district, a corporation, with jurisdiction invoked under 28 U.S.C.A. §§ 1331 as amended and 1343(3) and 42 U.S.C.A. §§ 1981-1983.

The controversy, in main, raises the question as to the merits of the plaintiffs' claims, that the acts and deeds of the defendants while acting or purporting to act pursuant to the laws of Arkansas, (1) in providing public schools for the plaintiffs and the class of persons they represent, on a segregated and separate basis because of race and color alone, and (2) assigning and compelling them to attend and denying them the right to enter, enroll, register and receive instructions in the schools open to all other children of school-age in that district, constitutes a denial of rights and privileges secured and guaranteed to them as citizens under the Constitution and laws of the United States. As remedies, they seek (1) injunctive relief against enforcement, execution or operation of the statutes, rules and regulations of which they complain and (2) a declaratory judgment answering the following questions:

> "Whether the acts and deeds of defendants, or either of them, while acting or purporting to act pursuant to the laws of the State of Arkansas, or while acting under color of Arkansas laws, of providing public schools for plaintiffs on a separate and segregated basis because of the race and color of plaintiffs and assigning plaintiffs to separate and segregated public schools

on the classification of race alone and of forcing and compelling plaintiffs to enroll in and attend such separate and segregated schools because of their race and color, deny to plaintiffs and the class of persons that they represent, their privileges and immunities as citizens of the United States, and the equal protection of the laws secured to them by the Fourteenth Amendment to the Constitution of the United States, or rights and privileges secured ***244** to them by Sections 1981 or 1983, of Title 42, United States Code, and are, for those reasons, unconstitutional and void?

"Whether the acts and deeds of defendants, or either of them, while acting or purporting to act pursuant to the laws of the State of Arkansas, or while acting under color of Arkansas laws, of denying and refusing minor plaintiffs and the members of the class of persons that they represent, the right and privilege of registering, enrolling, entering, attending classes and receiving instruction in the public schools within the Dollarway School District Number 2 and under their supervision and control at the same time and under the same terms and conditions that all other minor residents of said district are permitted to register, enroll, enter, attend classes and receive instruction without any distinctions, restrictions, limitations or deprivations being made as to them because of, or on the basis of classification of, race or color, deny to minor plaintiffs and the members of the class of persons that they represent, privilege and immunities guaranteed to them as citizens of the United States, or the equal protection of the laws secured to them by Sections 1981 and 1983, of Title 42, United States Code, and are, for those reasons, unconstitutional and void?"[2]

Other questions to be settled and determined are those which arise (1) on defendants' motion challenging the court's jurisdiction, (2) on another for summary judgment, (3) on one to reassign to a three-judge district court under 28 U.S.C.A. §§ 2281 and 2284, should constitutional questions of a substantial nature be raised, and (4) on one more to dismiss the plaintiffs' complaint on the ground that the plaintiffs prior to the time of the commencement of the suit failed to exhaust administrative remedies under the Arkansas Pupil Enrollment Act of 1956.[3]

As to (1) suffice it to say that the case clearly is within one or more of 28 U.S.C.A. § 1331 as amended and 42 U.S.C.A. § 1983 and that the motion, therefore, must be denied. Shuttlesworth v. Birmingham Board of Education, D.C., 162 F.Supp. 372, affirmed 358 U.S. 101, 79 S.Ct. 221, 3 L.Ed.2d 145.

The Arkansas Pupil Assignment Act of 1959[4], which repeals the Arkansas ***245** Pupil Enrollment Act of 1956, insofar as its provisions are in conflict therewith and which as to terms is in all material respects identical to the School Placement Law of Alabama, is *constitutional on its face,* since its provisions assure equal ***246** rights to all children in any Arkansas school district, as pupil assignments are made. Like conclusion as to *constitutionality on its face,* is also reached as to the Arkansas Pupil Enrollment Act of 1956, since its terms and provisions conform ***247** substantially to those in the Alabama and the other Arkansas Act. Shuttlesworth v. Birmingham Board of Education of Jefferson County, Alabama, D. C.1958, 162 F.Supp 372, affirmed 358 U.S. 101, 79 S.Ct. 221.

Against that conclusion, the plaintiffs, mainly on the authority of Atkins v. School Board of City of Newport News, D.C.1957, 148 F.Supp. 430, affirmed 4 Cir., 1957, 246 F.2d 325, certiorari denied 1957, 355 U.S. 855, 78 S.Ct. 83, 2 L.Ed. 2d 63, contend that the Pupil Assignment Laws of Arkansas, even without its Acts 4 and 5both having been declared unconstitutional and void on June 18, 1959[5] were a part of a plan and a scheme by the people of that state and its duly authorized representatives to maintain its traditional system of racial segregation in its public schools and to nullify the decisions in Brown v. Board of Education, ***248** 1954, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873, and in Brown v. Board of Education, 1955, 349 U.S. 294, 75 S.Ct. 753, 99 L.Ed. 1083, and that they for that reason were unconstitutional and void.

Such a contention is not supported by the Atkins v. School Board of City of Newport News case, supra. The Virginia Pupil Placement Laws were held unconstitutional and void under that decision, not because they were a part of a plan for maintaining of segregation and eventual nullifying of the Supreme Court directives against racial discrimination in public schools, but because that plan embraced an Act[6] in direct conflict with those directives, as it provided for the closing of all public schools, in any school district, and withdrawing of all public support therefrom if and when any racial integration in any school in such a district should take place or be permitted.

It is true that the court in that case regarded the various anti-racial integration acts in Virginia initiated and sponsored by its Governor, its General Assembly, other duly authorized legal representatives and its people, as a plan and a scheme to circumvent the decision in the Brown cases, yet, the court concluded that background as not fatal on the question of the constitutionality of the Virginia Pupil Placement Act, as it observed:

> "* * * Virginia took the additional fatal step of providing for the automatic closing of all schools of the same class in the particular political subdivision

> as well as the cutoff of funds for such schools, *irrespective of whether any child was assigned to another school pursuant to an administrative remedy or court order."* Atkins, supra, 148 F.Supp. at page 445.

and it gave emphasis to the point as it added:

> "In Carson v. Warlick, supra [4 Cir., 238 F.2d 724], the appellate court has held that the Pupil Placement Act of North Carolina is not unconstitutional on its face. North Carolina has not provided for either the automatic closing of any schools or the cut-off of state or local funds. Obviously the remedies afforded by North Carolina do not lead to a complete `blind alley' such as Virginia has prescribed." Atkins, supra, 148 F.Supp. at page 445.

In Shuttlesworth v. Birmingham Board of Education, supra, the court as it considered the constitutionality of the Alabama Pupil Assignment Law, had before it in the record a resistance plan to racial integration in the public schools of that state which included: (1) a report of the legislative interim committee, recommending an amendment to its state's constitution under which racial integration would be prohibited in the public schools; (2) enactment of a pupil placement law; (3) adoption of a Resolution of Interposition and Nullification[7], ***249** and (4) under the theory of judicial notice, all other acts and resolutions of the state legislature and other acts by duly authorized representatives of the state evincing hostility to the integration edicts. But the court, even as it referred to that plan, of which the Pupil Placement Law was a part, as one tending to show a strong and definite plan or scheme to circumvent the rule in the segregation cases, held that plan as one not having bearing on the constitutionality of that law as it concluded:

> "All that has been said in this present opinion must be limited to the constitutionality of the law *upon its face.* The School Placement Law furnishes the legal machinery for an orderly administration of the public schools in a constitutional manner by the admission of qualified pupils upon a basis of individual merit without regard to their race or color. We must presume that it will be so administered. If not, in some future proceeding it is possible that it may be declared unconstitutional in its application. The responsibility rests primarily upon the local school boards, but ultimately upon all of the people of the state." Shuttlesworth, supra, 162 F.Supp. at page 384.

Implicit, in the rules applied in those cases and controlling on the Arkansas Pupil Assignment Laws being within constitutional boundaries is the principle, that a state plan for resistance to racial integration in its public schools, is without significance as to the constitutionality of such laws if legitimate and constitutional means are used in the

operation of the plan and the attainment of its objectives.[8] Shuttlesworth v. Birmingham Board of Education, supra, and Carson v. Warlick, 4 Cir., 1956, 238 F.2d 724. It is otherwise, however, if in the process of such resistance a state resorts to enactment of an act which nullifies the integration doctrine. Atkins v. The School Board of City of Newport News, supra. See also Orleans Parish School Board v. Bush, 5 Cir., 1957, 242 F.2d 156.

The defendants have moved to dismiss the complaint on the ground that the plaintiffs, prior to the commencing of their suit, failed to avail themselves of all of the administrative remedies provided for by the Arkansas Pupil Enrollment Act of 1956.

It is true that they didn't. The "exhaustion of administrative remedies rule," which defendants invoke, nevertheless does not apply.

Under this record it is conclusively established, that the superintendents and the officers of the defendant school district and its Board of Directors, throughout the three school years when the plaintiffs, Earnestine Dove, James Edwards Warfield and Corliss Smith, sought admission to the white schools in the district, before that time and since, have had and continue to have and through its superintendents and other managing personnel, have carried into effect, enforced and maintained, a rigid, racial segregation policy in all of its schools, which, without exception, permitted no entry of any colored child into its white schools. It is established, too, that the Board intends a continuation of that policy, without any change or modifications and that its professing of the Pupil Enrollment Act of 1956 having been applied and in ***250** operation during the years 1957, 1958 and 1959, is but a cover-up to conceal its anti-racial and pro-racial segregation attitude.

These are the facts. The record permits no other conclusion. Dove, Warfield and Smith exhausted their administrative remedies, actually, under the Act, as they applied for admission the first time and were denied. They got the same results as they made their second and third attempt. Another one, on a petition for hearing before the Board, would indeed have been futile and therefore not required as a requisite to the commencement of this suit.

A factual situation, substantially like this one, was before the court in the case of Bush v. Orleans Parish School Board, D.C.E.D.La.1956, 138 F.Supp. 337, 341, where it was said:

> "As a practical matter, plaintiffs here have exhausted their administrative remedies. They have petitioned the Board on three separate occasions asking that their children be assigned to non-segregated schools. The

> Board not only has refused to desegregate the schools, but has passed a resolution noting the existence of the present suit and stating, `It is not only to the manifest interest of this Board and in accord with its expressed policy, but also in furtherance of the public welfare of this community that this suit and any others that might be instituted with the same objective be vigorously, aggressively, and capably defended.' To remit each of these minor children and the thousands of others similarly situated to thousands of administrative hearings before this Board, to seek the relief to which the Supreme Court of the United States has said they are entitled, would be a vain and useless gesture, unworthy of a court of equity. It would be a travesty in which this court will not participate."

That case was affirmed in the case of Orleans Parish School Board v. Bush, 5 Cir., 1957, 242 F.2d 156.

Again in the case of School Board of City of Charlottesville v. Allen, 4 Cir., 1956, 240 F.2d 59, 60, we have the following comment by Chief Judge Parker:

> "Equity does not require the doing of a vain thing as a condition of relief."

See also Bruce v. Stilwell, 5 Cir., 1953, 206 F.2d 554, and Parker v. Lester, D.C. N.D.Cal., S.D.1953, 112 F.Supp. 433.

A reminder as to the duties of a school board intrusted with the implementation of the integration doctrine and administration of a pupil assignment law, clearly, at this point is in order.

The area in which school boards in the course of their administration of their school district may operate, be it within or without pupil assignment laws, are referred to in the case of Briggs v. Elliott, D.C.E.D.S.C.1955, 132 F.Supp. 776, at page 777:

> "Having said this, it is important that we point out exactly what the Supreme Court has decided and what it has not decided in this case. It has not decided that the federal courts are to take over or regulate the public schools of the states. It has not decided that the states must mix persons of different races in the schools or must require them to attend schools or must deprive them of the right of choosing the schools they attend. What it has decided, and all that it has decided, is that a state may not deny to any person on account of race the right to attend any school that it maintains. This, under the decision of the Supreme Court, the state may not do directly or indirectly; but if the schools which it maintains are open to

> children of all races, no violation of the Constitution is involved even though the children of different races voluntarily attend different schools, as they attend different churches. ***251** Nothing in the Constitution or in the decision of the Supreme Court takes away from the people freedom to choose the schools they attend. The constitution, in other words, does not require integration. It merely forbids discrimination. It does not forbid such segregation as occurs as the result of voluntary action. It merely forbids the use of governmental power to enforce segregation. The Fourteenth Amendment is a limitation upon the exercise of power by the state or state agencies, not a limitation upon the freedom of individuals.",

quoted with approval in Avery v. Wichita Falls Independent School District, 5 Cir., 1957, 241 F.2d 230, and in School Board of City of Charlottesville v. Allen, supra.

Again in Thompson v. County School Board of Arlington County, D.C.E.D.Va. 1956, 144 F.Supp. 239, there are other indications as to the extensiveness of a board's powers:

> "It must be remembered that the decisions of the Supreme Court of United States in Brown v. Board of Education, 1954, 347 U.S. 483, 74 S. Ct. 686, 98 L.Ed. 873 and 1955, 349 U.S. 294, 75 S.Ct. 753, 99 L.Ed. 1083, do not compel the mixing of the different races in the public schools. No general reshuffling of the pupils in any school system has been commanded. The order of that Court is simply that no child shall be denied admission to a school on the basis of race or color. Indeed, just so a child is not through any form of compulsion or pressure required to stay in a certain school, or denied transfer to another school, because of his race or color, the school heads, may allow the pupil, whether white or Negro, to go to the same school as he would have attended in the absence of the ruling of the Supreme Court. Consequently, compliance with that ruling may well not necessitate such extensive changes in the school system as some anticipate.",

which language is quoted with approval in the per curiam opinion of the Court of Appeals for the Fourth Circuit in School Board of City of Newport News, Virginia v. Atkins, 1957, 246 F.2d 325.

There are restrictions, however, on such powers. Those are referred to in Brown v. Board of Education, 1955, 349 U.S. 294, 75 S.Ct. 753, 756, 99 L.Ed. 1083, where it is said:

> "Full implementation of these constitutional principles may require solution of varied local school problems. School authorities have the primary

> responsibility for elucidating, assessing, and solving these problems; *courts will have to consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles.*" (Emphasis supplied.)

The court in that case continued:

> "In fashioning and effectuating the decrees, the courts will be guided by equitable principles. Traditionally, equity has been characterized by a practical flexibility in shaping its remedies[9] and by a facility for adjusting and reconciling public and private needs.[10] These cases call for the exercise of these traditional attributes of equity power. At stake is the personal interest of the plaintiffs in admission to public schools as soon as practicable on a nondiscriminatory basis. To effectuate this interest may call for elimination of a variety of obstacles in making the transition to school systems operated in accordance with the constitutional principles set forth in our May 17, 1954, decision. ***252** Courts of equity may properly take into account the public interest in the elimination of such obstacles in a systematic and effective manner. *But it should go without saying that the vitality of these constitutional principles cannot be allowed to yield simply because of disagreement with them.*
>
> "While giving weight to these public and private considerations, the courts will require that the defendants make a prompt and reasonable start toward full compliance with our May 17, 1954, ruling. Once such a start has been made, the courts may find that additional time is necessary to carry out the ruling in an effective manner. The burden rests upon the defendants to establish that such time is necessary in the public interest and is consistent with good faith compliance at the earliest practicable date. To that end, the courts may consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis, and revision of local laws and regulations which may be necessary in solving the foregoing problems. They will also consider the adequacy of any plans the defendants may propose to meet these problems and to effectuate a transition to a racially nondiscriminatory school system. During this period of transition, the courts will retain jurisdiction of these cases." (Emphasis supplied.)

Again in the case of Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401, 1409, 3 L.Ed. 2d 5:

> "In short, the constitutional rights of children not to be discriminated against in school admission on grounds of race or color declared by this Court in the Brown case can neither be nullified openly and directly by state legislators or state executive or judicial officers, *nor nullified indirectly by them through evasive schemes for segregation whether attempted `ingeniously or ingenuously.'* (Last emphasis supplied.) Smith v. Texas, 311 U.S. 128, 132, 61 S.Ct. 164, 166, 85 L.Ed. 84."

The defendants by answer admit: (1) "that plaintiffs are citizens of the United States, the state of Arkansas, and are domiciled in Jefferson County"; (2) "that the minor plaintiffs heretofore have attended the public schools of the defendant district", and (3) "that the defendants have not heretofore had, nor do they now have, any knowledge of any disqualification of any of the minor plaintiffs from attending the said schools."

The proof, as heretofore found and declared shows the plaintiffs, Dove, Warfield and Smith, to have been denied admission to the white schools, only because of race and the Board's anti-integration policy and none to prove that they did not have the same qualifications as the white children who were admitted.

That record constituted prima facie proof of the qualifications of Dove, Warfield and Smith for admission to the white schools where they applied. It was then for the defendants, under the affirmative defenses in their answer, to counter with proof that the Pupil Enrollment Act in good faith had been and was being applied and that those plaintiffs pursuant to the terms of that Act had been properly classified and assigned. They failed in this respect as heretofore shown and determined. Plaintiffs' prima facie case, on this point, remains undisturbed. And the presumptions of qualification for admission to any public school in the defendant district, which necessarily arises out of American citizenship, school age status and residence in the district hasn't been overcome. 44 Iowa L.Rev. 147 (1958).

***253** The Court for these reasons and others discussed, finds that the plaintiffs, Dove, Warfield and Smith, had the necessary admission qualifications; that their applications were illegally denied and that they must be admitted to the white schools in the defendant district as the 1959-1960 school year is commenced.

For the reasons assigned in the discussion of the question before the court under this record and the rules referred to in the authorities, it is held that there is no basis for a reassignment of the case to a three-judge court under 28 U.S.C.A. §§ 2281 and 2284.

It is the judgment and declaration of this court: (1) that the Arkansas Pupil Enrollment Act of 1956 was constitutional on its face; (2) that the Arkansas Pupil Assignment Act of 1959 is constitutional on its face; (3) that the Board of Directors of the Dollarway School District No. 2 of Jefferson County, Arkansas, its individual members, the defendant School District itself, its Superintendent and Officers, and their successors in office, be, and they are hereby directed to admit the plaintiffs, Earnestine Dove, James Edwards Warfield and Corliss Smith, or either of them, as pupils, to the white schools in the district, at the beginning of the 1959-1960 school year and that they, the said defendants and each of them, and their successors in office, be, and they are hereby permanently enjoined from engaging in any act or acts, which within the doctrine of Brown v. Board of Education (1954 and 1955) cases, supra, will directly or indirectly impede, thwart, delay or frustrate, the progress of said plaintiff children as they attend such schools; (4) that the defendants and each of them and their successors in office, forthwith, but not later than the beginning of the 1959-60 school year in the defendant district, in good faith and within the doctrine enunciated in the aforementioned Brown v. Board of Education cases, proceed with and apply the rules and regulations prescribed by the Arkansas Pupil Assignment Act of 1959, and (5) that the court will retain its jurisdiction of the case.

NOTES

[1] Class action under Rule 23(a) (3), Fed.Rules Civ.Proc. 28 U.S.C.A.

[2] Plaintiffs' Complaint.

[3] Arkansas Pupil Enrollment Act, Initiated Measure No. 2 (Ark.Stat. § 80-1519 et seq.) became effective December 6, 1956.

[4] Pupil Assignment Act, Act 461 of the General Assembly of Arkansas (1959) became effective June 11, 1959 and is: "An Act to Control the Assignment and Placement of Pupils in the Public Schools; to Establish and Regulate the Procedure for Hearings by Local School Boards With Respect to the Operation of Public Schools; to Authorize the Attorney General to Render Advice and Assistance to Local School Boards; to Provide That School Boards Shall Exercise a Quasi Judicial Function With Respect to Hearings Upon the Assignment of Pupils; to Limit the Liability of School Boards, the Members Thereof, Officials and Employees in the Exercise of Their Official Duties as Herein Set Forth.

"Be It Enacted by the General Assembly of the State of Arkansas:

"Section 1. The legislature finds and declares that the rapidly increasing demands upon the public economy for the continuance of education as a public function and the efficient maintenance and public support of the public school system require, among other things, consideration of a more flexible and selective procedure for the establishment of units, facilities and curricula and as to the qualification and assignment of pupils.

"The legislature also recognizes the necessity for a procedure for the analysis of the qualifications, motivations, aptitudes and characteristics of the individual pupils for the purpose of placement, both as a function of efficiency in the educational process and to assure the maintenance of order and good will indispensable to the willingness of the citizens and taxpayers of the State of Arkansas to continue a public educational system as a necessary public function, and also a vital part of the sovereignty and police power of the State of Arkansas.

"Section 2. To the ends aforesaid, the State Board of Education shall make continuing studies as a basis for general reconsideration of the efficiency of the educational system in promoting the progress of pupils in accordance with their capacity and to adapt the curriculum to such capacity and otherwise conform the system of public education to social order and good will. Pending further studies and recommendations by the school authorities the legislature considers that any general or arbitrary reallocation of pupils heretofore entered in the public school system according to any rigid rule of proximity of residence or in accordance solely with request on behalf of the pupil would be disruptive to orderly administration, tend to invite or induce disorganization and impose an excessive burden on the available resources and teaching and administrative personnel of the schools.

"Section 3. Pending further studies and legislation to further effectuate the policy declared by this Act, the respective school districts and county Boards of Education, hereinafter referred to as `local Boards of Education,' are not required to make any general reallocation of pupils already entered in the public school system and shall have no authority to make or administer any general or blanket order to take effect from any source whatever, or to give effect to any order which shall purport to or in effect require transfer or initial or subsequent placement of any individual or group in any unit or facility without a finding by the local Board that such transfer or placement is as to each individual pupil consistent with the test of the public and educational policy governing the admission and placement of pupils in the public school system prescribed by this Act.

"Section 4. Subject to appeal in the limited respect herein provided, each local Board of Education shall have full and final authority and responsibility for the assignment, transfer

and continuance of all pupils among and within the public schools within its jurisdiction, and may prescribe rules and regulations pertaining to those functions. Subject to review by the local Board of Education as provided herein, the local Board of Education may exercise this responsibility directly or may delegate its authority to the Superintendent. In the assignment, transfer or continuance of pupils among and within the schools, or within the classroom and other facilities thereof, the following factors and the effect or results thereof shall be considered, with respect to the individual pupil, as well as other relevant matters: Available room and teaching capacity in the various schools; the availability of transportation facilities; the effect of the admission of new pupils upon established or proposed academic programs; the suitability of established curricula for particular pupils; the adequacy of the pupil's academic preparation for admission to a particular school and curriculum; the scholastic aptitude and relative intelligence or mental energy or ability of the pupil; the psychological qualification of the pupil for the type of teaching and associations involved; the effect of admission of the pupil upon the academic progress of other students in a particular school or facility thereof; the effect of admission upon prevailing academic standards at a particular school; the psychological effect upon the pupil of attendance at a particular school; the possibility of breaches of the peace or ill will or economic retaliation within the community; the home environment of the pupil; the maintenance or severance of established social and psychological relationships with other pupils and with teachers; the choice and interests of the pupil; the morals, conduct, health and personal standards of the pupil; the request or consent of parents or guardians and the reasons assigned therefor.

"Section 5. A local Board of Education may, by mutual agreement, provide for the admission to any school of pupils residing in adjoining districts whether in the same or different counties, and for transfer of school funds or other payments by one Board to another for or on account of such attendance.

"Section 6. Local Boards of Education shall have authority to assign and reassign or transfer all teachers in schools within their jurisdiction.

"Section 7. A parent or guardian of a pupil may file in writing with the local Board objections to the assignment of the pupil to a particular school, or may request by petition in writing assignment or transfer to a designated school or to another school to be designated by the Board. Unless a hearing is requested, the Board shall act upon the same within 30 days, stating its conclusion. If a hearing is requested the same shall be held beginning within 30 days from receipt by the Board of the objection or petition at a time and place within the school district designated by the Board.

"The Board may itself conduct such hearing or may designate not less than three of its members to conduct the same and may provide that the decision of the members designated or a majority thereof shall be final on behalf of the Board. The Board of Education is authorized to designate one or more of its members or one or more competent examiners to conduct any such hearings, and to take testimony, and to make a report of the hearings to the entire board for its determination. No final order shall be entered in such case until each member of the board of education has personally considered the entire records.

"In addition to hearing such evidence relevant to the individual pupil as may be presented on behalf of the petitioner, the Board shall be authorized to conduct investigations to any objection or request, including examination of the pupil or pupils involved, and may employ such agents and others, professional and otherwise, as it may deem necessary for the purpose of such investigations and examinations.

"For the purpose of conducting hearings or investigations hereunder, the local Board shall through its President, or Secretary, have the power to administer oaths and affirmations. It shall be the duty of each local Board to hear and consider all witnesses appearing before the said Board and having information pertinent and relative to the matter and to consider all relevant documentary evidence. Witnesses at such hearings conducted under this Act before a local Board, shall not be entitled to any witness fee.

"Section 8. Any other provisions of law notwithstanding, no child shall be compelled to attend any school in which the races are commingled with a written objection of the parent or guardian has been filed with the Board of Education. If in connection therewith a requested assignment or transfer is refused by the Board, the parent or guardian may notify the Board in writing that he is unwilling for the pupil to remain in the school to which assigned, and the assignment and further attendance of the pupil shall thereupon terminate; and such child shall be entitled to such aid for education as may be authorized by law.

"Section 9. The findings of fact and the action of the Board shall be final and such findings and action shall be made a part of the records of the local Board; however, if any pupil or the parent or guardian, if any, of any minor, or, if none, if the custodian of any such minor shall, as next friend, file an exception before such Board to the final action of the Board as constituting a denial of any right of such minor guaranteed under the Constitution of the United States or of any right under the Laws of Arkansas, and the Board shall not, within 15 days, reconsider its final action, an appeal may be taken from the final action of the local Board, on such ground alone, to the Circuit Court of the

Judicial Circuit, and in which the school board is located, by filing with the Clerk of the Circuit Court within thirty (30) days from the date of the local Board's final decision a petition stating the facts relevant to such pupil as bearing on the alleged denial of his rights under the United States Constitution or the Constitution and/or laws of the State of Arkansas, accompanied by a surety bond approved by the said Clerk, conditioned to pay all costs of appeal if the same be not sustained. A copy of such petition and bond shall be filed with the President or the Secretary of the local Board from whose order, the petitioner is appealing. The filing of such petition of appeal shall not suspend or supersede an order of the local Board of Education; nor shall the Court have the power or jurisdiction to suspend or supersede the said order of the local Board issued under this Act before the entry, of the final decree in the proceedings, except that the Court may suspend such an order upon application by the petitioner made at the time of the filing of the petition for appeal, and after a preliminary hearing, and upon a prima facie showing by the petitioner that the local Board has acted unlawfully to the manifest detriment of the child who is the subject of the proceeding.

"On such appeal the Circuit Court will try the said cause de novo, but the determination made by the local Board shall remain in full force and effect until superceded by a lawful decree or order of the Circuit Court as set out herein. An appeal may be taken to the Supreme Court of Arkansas from the decisions of the Circuit Court in the same manner as appeals may be taken in other suits at law, either by the petitioner or by the local Board of Education.

"Section 10. The local Board before whom any objection or proceeding with respect to the placement of pupils is pending, may, upon authorization in writing of a majority of the elected members of the local Board, request the Attorney General of the State of Arkansas, to appear in such proceedings as amicus curiae to assist the local Board in the performance of its quasi judicial functions and to represent the public interest. Expenses of any reporters or any cost of such proceedings approved by the local Board, shall be the obligation of the district or county board involved and shall be paid from the public school funds of such district or county.

"Section 11. Since the determination of the matters required to be considered by the local Boards pursuant to the provisions of a quasi judicial nature the members of such local boards are clothed with the immunities of all other tribunals of a similar nature; the President and Secretary of each local board shall have the authority to administer oaths for the purpose of taking the testimony of witnesses appearing before the Board; such oath when administered, shall have the same effect as if administered by the foreman of a grand jury.

"Section 12. No Board of Education or any member thereof, nor any district or county employee or the superintendent thereof, or any teacher shall be answerable to any charge of libel, slander or other action, whether civil or criminal, by reason of any finding or statement contained in the written findings of fact or decisions or by reason of any written or oral statements made in the course of proceedings of deliberations provided for under this Act.

"Section 13. If any section, clause, sentence, paragraph, part or provision of this Act shall be found to be invalid or ineffective by any Court, it shall be conclusively presumed that this Act would have been passed by the General Assembly without such invalid section, clause, sentence, paragraph, part or provision and the Act as a whole shall not be declared invalid by reason of the fact that some part thereof may be found invalid by such Court.

"Section 14. All laws and parts of laws in conflict herewith are hereby repealed."

[5] Arkansas Acts 4 and 5 of 1958 (2nd Ex.Sess.), as amended by Act 151, Ark. Acts of 1959.

A three-judge court in Aaron v. McKinley, D.C.E.D.Ark.1959, 173 F.Supp. 944, 950, held those Acts unconstitutional. The opinion, insofar as it relates to that point, states: "With all due respect to the considered views of those Justices of the Supreme Court of Arkansas who concluded that Act No. 4 represented a valid exercise of the police power of the State and therefore did not violate the Fourteenth Amendment to the Constitution of the United States, we are firmly of the opinion that Act No. 4 cannot be sustained upon that ground, and is clearly unconstitutional under the due process and equal protection clauses of the Fourteenth Amendment, and conferred no authority upon the Governor to close the public high schools in Little Rock." And further they declared: "Since Act No. 5 is complementary to and dependent upon Act No. 4, and that Act is invalid, it follows that Act No. 5 is also invalid and completely ineffectual. We are satisfied that Act No. 5, as amended, cannot stand alone and did not, and does not, authorize the State Board of Education to deprive the Little Rock School District of State funds allocable to it for the maintenance of its schools on a constitutional basis, or to divert any part of those funds to other schools or other districts."

[6] Act Va.1956, Ex.Sess., c. 70 §§ 1 et seq., 2, 2a, 3(1-8), 4-11.

[7] The Resolution of Interposition and Nullification was passed by the Special Session 1956 of the Alabama Legislature and became effective February 2, 1956, Act No. 42. It states: "`That until the issue between the State of Alabama and the General Government

is decided by the submission to the states, pursuant to Article V of the Constitution, of a suitable constitutional amendment that would declare, in plain and unequivocal language, that the states do surrender their power to maintain public schools and other public facilities on a basis of separation as to race, the Legislature of Alabama declares the decisions and orders of the Supreme Court of the United States relating to separation of races in the public schools are, as a matter of right, null, void, and of no effect; and the Legislature of Alabama declares to all men as a matter of right, this State is not bound to abide thereby; we declare, further, our firm intention to take all appropriate measures honorably and constitutionally available to us, to avoid this illegal encroachment upon our rights, and to urge upon our sister states their prompt and deliberate efforts to check further encroachment by the General Government, through judicial legislation, upon the reserved powers of all states.'" Shuttlesworth, supra, 162 F. Supp. at page 380.

The Arkansas Resolution of Interposition states in part: "Therefore, The People of Arkansas, by Popular Vote: * * 2. Pledge our firm intention to take all appropriate measures, honorably and legally available to us, to resist any and all illegal encroachments upon the powers reserved to the State of Arkansas to order and control its own domestic institutions according to its own exclusive judgement."

[8] Cooper v. Aaron, 358 U.S. 1, at page 24, 78 S.Ct. 1401, at page 1413, 3 L.Ed. 2d 5: "The duty to abstain from resistance to `the supreme Law of the Land,' U.S.Const., Art. VI. § 2, as declared by the organ of our Government for ascertaining it, does not require immediate approval of it nor does it deny the right of dissent. Criticism need not be stilled. Active obstruction or defiance is barred."

[9] See Alexander v. Hillman, 296 U.S. 222, 239, 56 S.Ct. 204, 80 L.Ed. 192.

[10] See Hecht Co. v. Bowles, 321 U.S. 321, 329-330, 64 S.Ct. 587, 88 L.Ed. 754.

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Cato v. Parham, 293 F. Supp. 1375 (E.D. Ark. 1968)

U.S. District Court for the Eastern District of Arkansas - 293 F. Supp. 1375 (E.D. Ark. 1968)
July 25, 1968

293 F. Supp. 1375 (1968)

Samuel Wayne CATO et al., Plaintiffs,
v.
Lee PARHAM et al., Defendants.

No. PB-67-C-69.

United States District Court E. D. Arkansas, Pine Bluff Division.

July 25, 1968.

***1376** George Howard, Jr., Pine Bluff, Ark., for plaintiffs.

Robert V. Light, of Smith, Williams, Friday & Bowen, Little Rock, Ark., for defendants.

Memorandum Opinion

HENLEY, Chief Judge.

This cause is now before the Court on the latest desegregation plan submitted by the Board of Directors of the Dollarway School District No. 2, Jefferson County, Arkansas. The plan in the form of a motion and a supporting statement was submitted on June 26. Objections to it have been filed by plaintiffs and intervenors.

The Court has given the plan careful consideration in the light of its contents, the entire record in this case, the record in its predecessor case, Dove v. Parham, E.D.Ark., 196 F.Supp. 944, and ruling opinions of the Supreme Court of the United States and of the Court of Appeals for this Circuit. The Supreme Court cases considered include, of course, the trilogy of decisions handed down by the Court on May 27 of the current year involving the public schools of New Kent County, Virginia; Gould, Arkansas; and Jackson, Tennessee, in all of which districts the school boards were trying to comply with the Brown decisions by employing the so-called "freedom of choice" or "free transfer" method of pupil assignment. Green v. County School Board of New Kent County, 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed.2d 716; Raney v. Board of Education of Gould School District, 391 U.S. 443, 88 S.Ct. 1697, 20 L.Ed.2d 727; Monroe v. Board of Commissioners of the City of Jackson, Tenn., 391 U.S. 450, 88 S.Ct. 1700, 20 L.Ed.2d 733.

The Court sees no occasion for an extended opinion dealing with the Board's present plan; enough has been written already in the course of this protracted litigation. The Court and counsel on both sides are thoroughly familiar with the history of the litigation and of the progress that has been made toward desegregation of student bodies and faculty down to this time.

The Court will emphasize that there can now be no question that the "Briggs v. Elliott" approach which this Court has used in years past in this case and in others, and which the Board has used in this case, is no longer permissible. Under the Supreme Court decisions above cited it is the duty of local school boards to disestablish dual schools systems based on race, and to establish unitary systems in which there are no identifiable "white" schools and no identifiable "Negro" schools, but just "schools." And that duty must be discharged promptly; there is no longer room for mere "deliberate speed." Prior to the Supreme Court decisions of May 27 the Court of Appeals for this Circuit had so held in a number of cases with which counsel are familiar, and this Court had so defined the Board's duty in its unpublished memorandum opinion of January 12, 1968.

Nor is there any question that the schools in the Dollarway District are racially identifiable, and that the Board is still operating an unconstitutional dual system of schools. There are not now and never have been any white students assigned to the Townsend Park Schools; only slightly more than 50 Negroes attended the formerly all-white schools during the school term just past, and it is contemplated that only 71 of such students will be in attendance at those schools during the coming year. The percentage of Negroes heretofore enrolled and to be enrolled in the formerly all white schools in the District is less than the percentages involved in the New Kent County, Gould, and Jackson cases. The staff and faculty of the District are only partially desegregated.

***1377** It is not now the function of the Board merely to ameliorate the situation by assigning more Negro students and teachers to the formerly all white schools or by assigning more white teachers or even some white students to the Townsend Park System. It is the duty of the Board to eliminate the dual system itself, and to do so promptly.

The Supreme Court did not define the term "promptly" and did not set any hard and fast deadline to be met by all school districts or by any school district. But, the urgency of the language of the opinions and the urgency of the language of earlier opinions of the Court of Appeals for this Circuit makes it crystal clear that the time for "transitional plans" is running out. The Court thinks it a fair prediction that in general school districts will not be permitted to remain "in transition" beyond the beginning of the 1969-70 school term. In that connection the Court observes that in the El Dorado case, the Altheimer case, and the Marvell case, the Court of Appeals set September 1969 as the deadline for faculty desegregation, and this Court has set that deadline for such desegregation in this case.

The record in the case indicates that the Board has made some additional interracial staff and faculty assignments for the coming year and has assigned students for that year in accordance with the choices expressed by them in April. The Board proposes to operate without change during 1968-69 while it undertakes to decide what it is going to do after that session.

In view of the imminence of the opening of school this fall, in view of the plans for the term which have been made already, and in view of the fact that radical reorganization of the District's schools and their operations will require at least some thought and some time, the Court is going to approve that part of the Board's plan and permit it to operate during the 1968-69 school year in accordance with student and faculty assignments which have been made already.

The Court has a great deal of trouble with what the Board says that it plans to do in school years beginning with the 1969-70 session, and that part of the plan is disapproved. The Court might say that this is simply one more instance in this protracted litigation of the Court being unable to give overall long-range approval to anything which the Board has submitted.

The Board will be ordered at this time to disestablish its dual school system and to convert promptly to a unitary system, as now required by the Supreme Court of the United States.

The particular method which the Board may adopt to comply with the Court's order is primarily the concern of the Board and not that of the Court. The Board must consider the alternatives available to it and choose which of the alternatives it will pursue.

The Board asks that it be allowed until March 1, 1969, within which to make its study and report to the Court. The Court is not willing to grant the Board so long a time and does not believe that the Board will require that much time to make its study and decide upon a course of action. There are some observations which the Court desires to make in this connection.

First, as the Court advised counsel some weeks ago, the Court does not think that the Board is to be criticized for not abandoning freedom of choice in advance of the May decisions of the Supreme Court. However, in January of this year and prior thereto the Board and its attorneys must have known that the status of freedom of choice was extremely doubtful. The Court does think that the Board had no right simply to assume that the Supreme Court in the Virginia, Arkansas, and Tennessee cases would uphold the basic positions of the school boards there involved. The Court thinks that at least since January the Board was under a duty to begin making studies and considering alternatives to freedom of choice.

***1378** The Dollarway District has never come up with a desegregation plan which did not provoke further litigation, and the Court cannot assume now that any further plan which the Board may submit will be acceptable on its face to the plaintiffs and intervenors. If the Board is given until March 1 to submit a plan, and if litigation follows, it might not be completed at the appellate level prior to the opening of schools in September 1969, and the schools would open with the rights and liabilities of the parties clouded with doubt, a situation which would be highly undesirable. An earlier submission of a plan followed by a prompt ruling on it by this Court would probably enable the Court of Appeals at least to pass on the plan prior to the opening of the 1969-70 session.

The Court realizes that the Board is going to be required to give some thought to what it is going to do and may be required to conduct some studies; but, if the Board starts now and moves with reasonable diligence, it should be in a position to submit a plan not later than December 1, 1968. In that plan the Board should indicate the alternatives which it deems available to it, and if it cares to do so may indicate to the Court which alternative it prefers.

There are two words of caution which the Court thinks that it should give to the Board in connection with whatever plan it submits.

The present plan and the brief in support thereof indicate a continuing hope on the Board's part that it can achieve its objective by the freedom of choice method of student assignments. The Court fears that that hope is unrealistic. Freedom of choice at Dollarway up to this time certainly has not brought about a unitary school system, and the Court doubts that it ever will.

A phrase appearing in the plan suggests that if the Board abandons freedom of choice effective as of September 1969 it may want a period of transition within which to fully implement the new method of pupil assignment, whatever that new method may be. The Court is not going to prejudge any plan or request which the Board may submit, but the Board must be aware that if any additional transition period is allowed beyond the opening of school in 1969, the length of that period, if any, will be short indeed.

In their objections to the plan plaintiffs and intervenors have renewed their request for the allowance of a reasonable attorney's fee. Such fees have not been allowed by the Court in this case and in similar cases in the past. In Kemp v. Beasley, II, 8 Cir., 389 F.2d 178, 191, the Court considered and denied a similar request for a fee in the El Dorado school case. However, it seems clear that in disallowing the fee the Court was seeking as much as anything else to promote what it hoped would be more harmonious relations between the El Dorado Board and the Negro school patrons.

This litigation has been going on for nine years. While the Court does not impugn the Board's good faith in trying to carry out the mandate of the Brown decisions, as the Board understood that mandate, it cannot be gainsaid that whatever progress has been made in the direction of desegregation at Dollarway has followed judicial prodding. And this Court really sees nothing today which points toward what the Court of Appeals called "a more cooperative atmosphere" in the second El Dorado case. Kemp v. Beasley, II, supra, 389 F.2d at 191.

In a case arising under the Public Accommodations Title of the Civil Rights Act of 1964, which Title expressly authorizes the award of a fee in a suit brought under it, the Supreme Court has held that the allowance of a fee should be the rule, rather than the exception. Newman v. Piggie Park Enterprises, Inc., 390 U.S. 400, 88 S.Ct. 964, 19 L.Ed. 2d 1263, decided March 19, 1968. While that decision is not binding here, it is suggestive.

The Court feels that the allowance of a fee is in order at this stage of this case, and a fee of $700.00 will be ***1379** allowed as compensation of counsel for services rendered from September 1967 down to this time.

A decree in accordance with the foregoing will be entered.

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SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection and applies for a school choice transfer under § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(3) A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under subdivision (c)(2) of this section may complete all remaining school years at the nonresident district.

SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to read as follows:

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district ~~with a copy to~~ ,which shall notify the resident district of the filing of the application;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) A nonresident district that receives an application under subsection (a) of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

(c) A nonresident district shall review and make a determination on each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

1 ~~subsection is irrevocable for one (1) year from the date the school district~~
2 ~~notifies the Department of Education of the declaration of exemption.~~
3 ~~(B) After each year of exemption, the board of directors~~
4 ~~may elect to participate in public school choice under this section if the~~
5 ~~school district's participation does not conflict with the school district's~~
6 ~~federal court-ordered desegregation program.~~
7 ~~(3) A school district shall notify the department by April 1 if~~
8 ~~in the next school year the school district intends to:~~
9 ~~(A) Declare an exemption under this section; or~~
10 ~~(B) Resume participation after a period of exemption.~~
11 ~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit
12 on school choice transfers each school year from a school district, less any
13 school choice transfers into the school district, under this section of not
14 *more than three percent (3%) of the* ~~*school district's three-quarter average*~~
15 ~~*daily membership for the*~~ *enrollment that exists in the school district as of*
16 *October 15 of the immediately preceding school year.*
17 (B) For the purpose of determining the percentage of school
18 choice transfers under this subsection, siblings who are counted in the
19 numerator as transfer students shall count as one (1) student~~, and siblings~~
20 ~~who are counted in the denominator as part of the average daily membership~~
21 ~~shall count as one (1) student~~.
22 (C) A student eligible to transfer to a nonresident
23 district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count
24 against the cap of three percent (3%) of the resident or nonresident
25 district.
26 (2) Annually by ~~June 1~~ *December 15*, the department shall report
27 to each school district the net maximum number of school choice transfers for
28 the ~~current~~ next school year.
29 (3) If a student is unable to transfer due to the limits under
30 this subsection, the resident district shall give the student priority for a
31 transfer in the ~~following~~ first school year in which the district is no
32 longer subject to subdivision § (b)(1) of this section in the order that the
33 resident district receives notices of applications under § 6-18-1905, as
34 evidenced by a notation made by the district on the applications indicating
35 date and time of receipt.
36

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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A.C.A. § 6-18-1901

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A.C.A. § 6-18-1901

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1902

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Title 6 Education
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Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1905

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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*** through December 12, 2014. ***

Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1907

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY				
Date and Time Received by Resident District:			Date and Time Received by Nonresident District:	
Resident District LEA #:			Nonresident District LEA#:	
Student's State Identification #:				
Application	Accepted		Rejected	
Reason for Rejection (If Applicable):				
Date Notification Sent to Parent/Guardian of Applicant:				
Date Notification Sent to Resident District :				

HEARING PROCEDURES

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

June 3, 2015

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

Chad and Marcy Teague
[redacted]
Stamps, AR 71860

Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Gary Hines, Superintendent
Emerson-Taylor-Bradley Sch. Dist.
506 E. Pine Street
Taylor, AR 71861

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is tentatively scheduled to hear the above-referenced appeal(s) on **Thursday, July 9, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on June 19, 2015**.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

/signed/

Jeremy C. Lasiter
General Counsel

cc: Mr. Johnny Key, Commissioner of Education
Ms. Annette Barnes, Asst. Commissioner, Public School Accountability
State Board of Education Office

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

May 13, 2015

RECEIVED
COMMISSIONER'S OFFICE
MAY 18 2015
DEPARTMENT OF EDUCATION

RECEIVED
ATTORNEY'S OFFICE
MAY 18 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

Office of the Commissioner

ATTN: Arkansas Public School Choice Act Appeals

Four Capitol Mall

Little Rock, AR 72201

To whom it may concern:

My name is Marcy Teague. I am writing you on behalf of myself and my husband, Chad Teague. We applied for our children (K[redacted]nd La[redacted]Teague) to be accepted into Taylor School in Taylor Arkansas using the School Choice Act. We currently reside in Stamps, AR which is in Lafayette County. We were denied admission because Lafayette County School District has declared exemption from the Public School Choice Act of 2015 due to the provisions of a desegregation order. I believe this order for Lafayette County should be thrown out due to the fact that the order was enforced under Lewisville School district which was dissolved in 2003. At that time Lewisville School District consolidated with Stamps School District, which is now Lafayette County School District. It was placed in order under Lewisville School District, now Lafayette County School District. I would appreciate any involvement on your part in determining its legality.

We as our children's parents only want the best education, safety, and discipline our children can receive. It is my top priority. I do not believe these demands can be met at the Lafayette County School District. I am basing my beliefs on facts. My school of choice (Taylor School) has a proven track record. Based on the last 3 years, Taylor School has ranked in the top 25 out of 247 school districts. Lafayette County has been at the bottom, ranking 219, 216, and 209 out of the same 247 districts in the last 3 years. Lafayette County has had several reported teacher/student molestation occurrences along with reported illegal drug activity on school campus. We instill stability, respect with accountability and discipline in our home and expect the same in our schools. I believe these traits can be enforced in Taylor Schools and not in the Lafayette County School District.

I am asking that this desegregation order that Lafayette County School District is using to opt of the Public School Choice Act of 2015 be dismissed based on the fact that the order was enforced under the Lewisville School District which no longer exists. I am also requesting a hearing if further appealing is needed to get my girls in my school of choice.

Sincerely,

Chad and Marcy Teague

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT
Gary Hines, Superintendent
506 E. Pine St.
Taylor, AR 71861

May 6, 2015

Chad & Marcy Teague
[redacted]
Stamps, AR 71860

Dear Chad & Marcy:

I regret to inform you that your applications for K[redacted]eague and L[redacted]eague to attend Taylor Schools for the 2015-2016 school year under the "Arkansas Public School Choice Act of 2015" have been rejected. The reason for the rejection is as follows:

You are a resident of the Lafayette County School District. According to the Arkansas Department of Education, LCSD has opted out of the Arkansas Public School Choice Act. You can find this information on the ADE's website at www.arkansased.org. Click on the "school choice" link under the Educational Options heading.

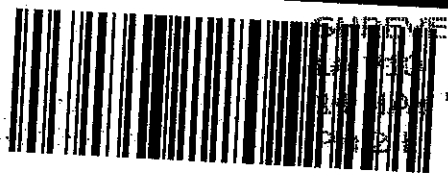
You have the right to appeal this decision to the Arkansas State Board of Education. For more information contact the Office of the Commissioner at 501-682-4203.

Sincerely,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

MARCY TEAGUE
[redacted]
Stamps, AR 71860

CERTIFIED MAIL™



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Office of the Commissioner
ATTN: ARKANSAS PUBLIC SCHOOL CHOICE ACT APPEALS
Four Capitol Mall
Little Rock, AR 72201

72201101999

May 22, 2015

Office of the Commissioner
ATTN: Jeremy C. Lasiter
Four Capital Mall
Little Rock, AR 72201

RECEIVED
ATTORNEY'S OFFICE
MAY 29 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

RECEIVED
COMMISSIONER'S OFFICE
MAY 29 2015
DEPARTMENT OF EDUCATION

Dear Mr. Lasiter,

As per our phone conversation on May 21, 2015, the parents who were denied admission into the Taylor School District would like to request one appeal hearing. We were denied by Taylor based solely on the claim of a desegregation order by the Lafayette County School District. The parents who request one hearing are as follows:

Chad and Marcy Teague

Brad and Angela Lloyd

Richard and Mindy Morton

John and Tiffanie Greene

Jamie Gardner

Don and Michelle Wheelington

Thank you in advance for your cooperation in this request.

Sincerely,

Marcy Teague

[redacted]

MARCY TEAGUE
[redacted]
STAMPS, AR 71860

SHREVEPORT LA 710
26 MAY 2015 PM 1 L

Office of the Commissioner
School Choice Appeals
ATTN: JEREMY C. LASITER
Four Capital Mall
LITTLE ROCK, AR 72201

72201101304

Fax Cover Letter

To: Jeremy Lasiter and Kendra Clay

Fax # 501-682-1079

From: Mike and Angie Vickers

Tommy and Connie Dean

Harley and Holly Tatom

Chad and Marcy Teague

[redacted]

Re: School Choice Materials For Appeal Hearing

Number of Pages (including cover sheet) 10

Date: 6/18/15

Comments: Please include all copies as additional materials to be viewed for Lafayette County Parents School Choice Appeal scheduled for July 9, 2015.

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com

Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (*i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

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suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District

Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

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Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

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staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

RECEIVED 06-18-'15 22:09 FROM- TO- ADE Commisioner P0006/0010

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 50%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

RECEIVED 06-18-'15 22:09 FROM- TO- ADE Commisioner P0007/0010

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

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appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

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December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72013
LASER, SHARP, MAYES, WILSON, BUFFORD
& WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a) and 58, FRCP.

on _____ by _____

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Fax Cover Letter

To: Jeremy Lasiter and Kendra Clay

Fax # 501-682-1079

From: Mike and Angie Vickers

Tommy and Connie Dean

Harley and Holly Tatom

Chad and Marcy Teague

[redacted]

Re: School Choice Materials For Appeal Hearing

Number of Pages (including cover sheet) 9

Date: 6/18/15

Comments: Please include all copies as additional materials to be viewed for Lafayette County Parents School Choice Appeal scheduled for July 9, 2015.

Emerson-Taylor-Bradley School District - 1408000

Taylor Elementary School - 1408018

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Proficient	2012-2013 Below Basic	2012-2013 Proficient	2013-2014 Below Basic	2013-2014 Proficient	School AMO
3rd Grade Literacy		Annual Measurable Objective (AMO) 83.52		2013 AMO 85.02				AMO
Combined Population	100			0	10.53	4.35	39.1	86.52
TAGG	100			RV	RV	9.09	54.5	71.43
African American	RV			RV	RV	RV	RV	50.00
Hispanic	RV			RV	RV	RV	RV	
Caucasian	100			0	10.53	4.55	36.4	87.86
Economically Disadvantaged	100			RV	RV	10.0	50.0	75.68
Students with Disabilities	RV			RV	RV	RV	RV	42.31
Limited English Proficient	RV			RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 3rd Grade Literacy			RV		RV		—	
Female	100			RV	RV	0.00	40.0	
Male	100			0	7.14	7.69	38.5	
Migrant	RV			RV	RV	RV	RV	
3rd Grade Mathematics		Annual Measurable Objective (AMO) 91.76		2013 AMO 92.51				AMO
Combined Population	100			0	47.37	0.00	39.1	93.26
TAGG	100			RV	RV	0.00	36.4	89.28
African American	RV			RV	RV	RV	RV	75.00
Hispanic	RV			RV	RV	RV	RV	
Caucasian	100			0	47.37	0.00	36.4	93.82
Economically Disadvantaged	100			RV	RV	0.00	40.0	89.87
Students with Disabilities	RV			RV	RV	RV	RV	71.16
Limited English Proficient	RV			RV	RV	RV	RV	
Female	100			RV	RV	0.00	40.0	
Male	100			0	36.71	0.00	38.5	
Migrant	RV			RV	RV	RV	RV	

Download 2012 School Report Card for 2012 Benchmark Results

Emerson-Taylor-Bradley School District - 1408000

Taylor High School - 1408019

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Basic	2011-2012 Proficient	2011-2012 Advanced	2012-2013 Below Basic	2012-2013 Basic	2012-2013 Proficient	2012-2013 Advanced	2013-2014 Below Basic	2013-2014 Basic	2013-2014 Proficient	2013-2014 Advanced	School
7th Grade Literacy		Annual Measurable Objective (AMO) 85.45				2013 AMO 86.78								AMO
Combined Population	100					0	[illegible]	41.38	[illegible]	0.00	[illegible]	30.8	[illegible]	88.10
TAGG	100					0	[illegible]	33.33	[illegible]	0.00	[illegible]	50.0	[illegible]	76.00
African American	RV					RV	RV	RV	RV	RV	RV	RV	RV	40.00
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Caucasian	100					0	[illegible]	42.86	[illegible]	0.00	[illegible]	31.8	[illegible]	92.25
Economically Disadvantaged	RV					0	[illegible]	38.46	[illegible]	RV	RV	RV	RV	76.00
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	25.00
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 7th Grade Literacy					RV				RV				—	
Female	100					0	[illegible]	18.18	[illegible]	0.00	[illegible]	23.1	[illegible]	
Male	100					0	[illegible]	55.56	[illegible]	0.00	[illegible]	38.5	[illegible]	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Mathematics		Annual Measurable Objective (AMO) 87.06				2013 AMO 88.23								AMO
Combined Population	100					10.34	[illegible]	44.83	[illegible]	15.4	[illegible]	19.2	[illegible]	89.41
TAGG	100					20	[illegible]	53.33	[illegible]	40.0	[illegible]	30.0	[illegible]	81.25
African American	RV					RV	RV	RV	RV	RV	RV	RV	RV	55.00
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Caucasian	100					10.71	[illegible]	42.86	[illegible]	9.09	[illegible]	13.6	[illegible]	91.56
Economically Disadvantaged	RV					7.69	[illegible]	61.54	[illegible]	RV	RV	RV	RV	81.25
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	25.00
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Female	100					18.18	[illegible]	36.36	[illegible]	23.1	[illegible]	23.1	[illegible]	
Male	100					5.56	[illegible]	50	[illegible]	7.69	[illegible]	15.4	[illegible]	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	

Download 2012 School Report Card for 2012 Benchmark Results

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Lafayette County School District - 3704000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Basic	2011-2012 Proficient	2011-2012 Advanced	2012-2013 Below Basic	2012-2013 Basic	2012-2013 Proficient	2012-2013 Advanced	2013-2014 Below Basic	2013-2014 Basic	2013-2014 Proficient	2013-2014 Advanced	District
3rd Grade Literacy		Annual Measurable Objective (AMO) 55.35						2013 AMO 59.41						AMO
Combined Population	100					10	20	24	46	10.3	15.1	33.3	41.2	63.47
TAGG	100					11.36	22.73	25	40.91	11.8	17.6	35.3	35.3	61.51
African American	100					13.79	24.14	29.69	32.41	16.7	25.9	27.8	29.6	59.25
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	89.28
Caucasian	100					5	25	25	45	5.00	30.00	35.0	30.0	70.12
Economically Disadvantaged	100					11.36	22.73	25	40.91	11.8	17.6	35.3	35.3	81.73
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 3rd Grade Literacy					RV				RV				—	
Female	100					0	15	30	55	6.25	12.5	31.3	50.0	
Male	100					16.67	43.33	20	40	13.0	17.4	34.8	34.8	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	
3rd Grade Mathematics		Annual Measurable Objective (AMO) 68.40						2013 AMO 71.28						AMO
Combined Population	100					6	54	40	60	2.56	20.5	17.9	59.0	74.15
TAGG	100					6.82	52.3	40.91	59.09	2.94	20.6	20.6	55.9	72.87
African American	100					3.45	10.34	41.38	44.83	5.56	22.2	27.8	44.4	69.95
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	100.00
Caucasian	100					10	0	35	55	0.00	20.00	10.0	70.0	80.32
Economically Disadvantaged	100					6.82	52.3	40.91	59.09	2.94	20.6	20.6	55.9	73.24
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Female	100					5	55	35	60	0.00	21.9	18.8	59.3	
Male	100					6.67	43.33	43.33	56.67	4.35	17.4	17.4	60.9	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	

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Lafayette County School District - 3704090

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Advanced 3%	2012-2013 Below Basic	Basic	Proficient	Advanced	Advanced 3%	2013-2014 Below Basic	Basic	Proficient	Advanced	Advanced 3%	District
6th Grade Mathematics		Annual Measurable Objective (AMO) 68.40					2013 AMO 71.28										AMO
Combined Population	100						13.33	[illegible]	22.22	[illegible]	[illegible]	10.5	[illegible]	33.3	[illegible]	[illegible]	74.15
TAGG	100						15.79	[illegible]	23.68	[illegible]	[illegible]	12.0	[illegible]	32.0	[illegible]	[illegible]	72.87
African American	100						18.18	[illegible]	21.21	[illegible]	[illegible]	12.8	[illegible]	30.8	[illegible]	[illegible]	69.95
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	100.00
Caucasian	100						0	[illegible]	30	[illegible]	[illegible]	5.88	[illegible]	35.3	[illegible]	[illegible]	80.32
Economically Disadvantaged	100						15.79	[illegible]	23.68	[illegible]	[illegible]	12.5	[illegible]	31.3	[illegible]	[illegible]	73.24
Students with Disabilities	100						RV	RV	RV	RV	RV	40.0	[illegible]	20.0	[illegible]	[illegible]	40.79
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Female	100						12	[illegible]	16	[illegible]	[illegible]	9.09	[illegible]	33.3	[illegible]	[illegible]	
Male	100						15	[illegible]	30	[illegible]	[illegible]	12.5	[illegible]	33.3	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Literacy		Annual Measurable Objective (AMO) 55.35					2013 AMO 59.41										AMO
Combined Population	100						2.08	[illegible]	43.75	[illegible]	[illegible]	0.00	[illegible]	34.0	[illegible]	[illegible]	63.47
TAGG	100						-2.63	[illegible]	44.74	[illegible]	[illegible]	0.00	[illegible]	39.0	[illegible]	[illegible]	61.51
African American	100						3.12	[illegible]	43.75	[illegible]	[illegible]	0.00	[illegible]	31.3	[illegible]	[illegible]	59.25
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	69.28
Caucasian	100						0	[illegible]	46.67	[illegible]	[illegible]	0.00	[illegible]	31.3	[illegible]	[illegible]	70.12
Economically Disadvantaged	100						2.63	[illegible]	44.74	[illegible]	[illegible]	0.00	[illegible]	39.0	[illegible]	[illegible]	61.73
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	33.11
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 7th Grade Literacy						RV					RV					---	
Female	100						4.17	[illegible]	41.67	[illegible]	[illegible]	0.00	[illegible]	26.7	[illegible]	[illegible]	
Male	100						0	[illegible]	45.83	[illegible]	[illegible]	0.00	[illegible]	45.0	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

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Lafayette County School District - 3704000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Advanced	2012-2013 Below Basic	Basic	Proficient	Advanced	Advanced	2013-2014 Below Basic	Basic	Proficient	Advanced	Advanced	District AMO
7th Grade Mathematics		Annual Measurable Objective (AMO) 68.40					2013 AMO 71.28										
Combined Population	100						12.5		52.08			14.0		30.0			74.15
TAGG	100						13.16		57.89			17.1		31.7			72.87
African American	100						12.5		59.38			21.9		21.9			69.95
Hispanic	RV						RV		RV			RV		RV			100.00
Caucasian	100						6.67		40			0.00		43.8			80.32
Economically Disadvantaged	100						13.16		57.89			17.1		31.7			73.24
Students with Disabilities	RV						RV		RV			RV		RV			40.79
Limited English Proficient	RV						RV		RV			RV		RV			
Female	100						4.17		54.17			10.0		26.7			
Male	100						20.83		50			20.0		35.0			
Migrant	RV						RV		RV			RV		RV			
7th Grade Science																	
Combined Population	100						58.25		8.33			44.0		14.0			
TAGG	100						63.16		2.63			48.8		9.76			
African American	100						65.62		0			56.3		9.38			
Hispanic	RV						RV		RV			RV		RV			
Caucasian	100						40		26.67			25.0		25.0			
Economically Disadvantaged	100						63.16		2.63			48.8		9.76			
Students with Disabilities	RV						RV		RV			RV		RV			
Limited English Proficient	RV						RV		RV			RV		RV			
Female	100						62.5		8.33			33.3		23.3			
Male	100						50		8.33			60.0		0.00			
Migrant	RV						RV		RV			RV		RV			

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Spring Hill School District - 2906000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Basic	2011-2012 Proficient	2011-2012 Advanced	2011-2012 Advanced	2012-2013 Below Basic	2012-2013 Basic	2012-2013 Proficient	2012-2013 Advanced	2012-2013 Advanced	2013-2014 Below Basic	2013-2014 Basic	2013-2014 Proficient	2013-2014 Advanced	2013-2014 Advanced	District
3rd Grade Literacy		Annual Measurable Objective (AMO) 87.82							2013 AMO 88.93								AMO
Combined Population	100						3.45	0	3.45	93.1	96.6	3.03	0.00	12.1	84.8	96.9	90.03
TAGG	100						5.88	0	5.88	91.2	94.1	5.56	0.00	22.2	72.2	94.4	86.37
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	81.25
Caucasian	100						0	0	4.55	95.5	100	0.00	0.00	15.4	84.6	100	90.30
Economically Disadvantaged	100						6.25	0	6.25	87.5	93.8	0.00	0.00	25.0	75.0	100	87.41
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	39.06
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 3rd Grade Literacy						RV					RV					—	
Female	100						6.67	0	6.67	86.7	93.3	0.00	0.00	5.00	95.0	100	
Male	100						0	0	0	100	100	7.69	0.00	23.1	69.2	92.3	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
3rd Grade Mathematics		Annual Measurable Objective (AMO) 89.82							2013 AMO 90.74								AMO
Combined Population	100						0	0	6.9	93.1	100	3.03	3.03	6.06	87.9	93.9	91.67
TAGG	100						0	0.00	11.76	88.2	100	5.56	5.56	11.1	77.8	88.9	88.11
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	87.50
Caucasian	100						0	0	0	100	100	0.00	0.00	7.69	88.5	92.3	92.23
Economically Disadvantaged	100						0	0.00	12.5	87.5	100	0.00	6.25	12.5	81.3	93.8	88.21
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	62.50
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Female	100						0	0.00	6.67	93.3	100	0.00	0.00	5.00	95.0	100	
Male	100						0	0	7.14	92.9	100	7.69	0.00	7.69	84.6	92.3	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

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Spring Hill School District - 2906000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Total Advanced	2012-2013 Below Basic	Basic	Proficient	Advanced	Total Advanced	2013-2014 Below Basic	Basic	Proficient	Advanced	Total Advanced	District
6th Grade Mathematics		Annual Measurable Objective (AMO)				89.82				2013 AMO	90.74						AMO
Combined Population	97.8						6.67	13.33	35.56	[illegible]	[illegible]	4.55	[illegible]	29.5	[illegible]	[illegible]	91.67
TAGG	100						6.9	[illegible]	44.83	[illegible]	[illegible]	9.09	[illegible]	31.8	[illegible]	[illegible]	88.11
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	87.50
Caucasian	97.4						5.13	[illegible]	35.9	[illegible]	[illegible]	5.26	[illegible]	26.3	[illegible]	[illegible]	92.23
Economically Disadvantaged	100						6.9	[illegible]	44.83	[illegible]	[illegible]	9.52	[illegible]	33.3	[illegible]	[illegible]	88.21
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	62.50
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	75.00
Female	100						4.35	[illegible]	39.13	[illegible]	[illegible]	4.55	[illegible]	22.7	[illegible]	[illegible]	
Male	95.7						9.09	[illegible]	31.82	[illegible]	[illegible]	4.55	[illegible]	36.4	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Literacy		Annual Measurable Objective (AMO)				87.82				2013 AMO	88.93						AMO
Combined Population	100						0	[illegible]	32.61	[illegible]	[illegible]	2.17	[illegible]	41.3	[illegible]	[illegible]	90.03
TAGG	100						0	[illegible]	32	[illegible]	[illegible]	0.00	[illegible]	44.0	[illegible]	[illegible]	86.37
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	[illegible]	RV	[illegible]	[illegible]	RV	RV	RV	RV	RV	81.25
Caucasian	100						0	[illegible]	31.82	[illegible]	[illegible]	2.44	[illegible]	39.0	[illegible]	[illegible]	90.30
Economically Disadvantaged	100						0	[illegible]	32	[illegible]	[illegible]	0.00	[illegible]	45.8	[illegible]	[illegible]	87.41
Students with Disabilities	RV						RV	[illegible]	RV	[illegible]	[illegible]	RV	RV	RV	RV	RV	39.06
Limited English Proficient	RV						RV	[illegible]	RV	[illegible]	[illegible]	RV	RV	RV	RV	RV	50.00
Number of recently arrived LEP students not assessed in 7th Grade Literacy						RV					RV					—	
Female	100						0	[illegible]	34.62	[illegible]	[illegible]	9.00	[illegible]	34.8	[illegible]	[illegible]	
Male	100						0	[illegible]	30	[illegible]	[illegible]	4.35	[illegible]	47.8	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

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Spring Hill School District - 2906000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Advanced	2012-2013 Below Basic	Basic	Proficient	Advanced	Advanced	2013-2014 Below Basic	Basic	Proficient	Advanced	Advanced	District AMO
7th Grade Mathematics		Annual Measurable Objective (AMO) 89.82					2013 AMO 90.74										
Combined Population	100						13.04	41.74	28.26	16.96	0.26	15.2	41.1	39.1	4.6	0.0	91.67
TAGG	100						16	40	32	8	0	20.0	56.0	24.0	0.0	0.0	88.11
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	87.50
Caucasian	100						11.36	37.12	27.27	18.94	5.30	12.2	48.8	39.0	0.0	0.0	92.23
Economically Disadvantaged	100						16	40	32	8	4	16.7	58.3	25.0	0.0	0.0	88.21
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	62.50
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	75.00
Female	100						7.69	15.38	38.46	23.08	15.38	8.70	56.5	34.8	0.0	0.0	
Male	100						20	35	15	20	10	21.7	17.4	43.5	17.4	0.0	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Science																	
Combined Population	100						10.87	15.22	32.61	19.57	21.74	19.6	34.8	41.3	4.35	0.0	
TAGG	100						16	40	24	12	8	24.0	28.0	40.0	8.0	0.0	
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Caucasian	100						11.36	29.55	34.09	19.70	5.30	19.5	34	43.9	2.4	0.0	
Economically Disadvantaged	100						16	40	24	12	8	20.8	29.2	41.7	8.3	0.0	
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Female	100						11.54	30.77	30.77	19.23	7.69	21.7	43.5	34.8	0.0	0.0	
Male	100						10	35	35	15	5	17.4	30.4	47.8	0.0	4.3	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

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Fax Cover Letter

To: Jeremy Lasiter and Kendra Clay

Fax # 501-682-1079

From: Mike and Angie Vickers

Tommy and Connie Dean

Harley and Holly Tatom

Chad and Marcy Teague

[redacted]

Re: School Choice Materials For Appeal Hearing

Number of Pages (including cover sheet) 11

Date: 6/18/15

Comments: Please include all copies as additional materials to be viewed for Lafayette County Parents School Choice Appeal scheduled for July 9, 2015.

May 13, 2015

Office of the Commissioner

ATTN: Arkansas Public School Choice Act Appeals

Four Capitol Mall

Little Rock, AR 72201

To whom it may concern:

My name is Marcy Teague. I am writing you on behalf of myself and my husband, Chad Teague. We applied for our children (K[redacted] and [redacted] Teague) to be accepted into Taylor School in Taylor Arkansas using the School Choice Act. We currently reside in Stamps, AR which is in Lafayette County. We were denied admission because Lafayette County School District has declared exemption from the Public School Choice Act of 2015 due to the provisions of a desegregation order. I believe this order for Lafayette County should be thrown out due to the fact that the order was enforced under Lewisville School district which was dissolved in 2003. At that time Lewisville School District consolidated with Stamps School District, which is now Lafayette County School District. It was placed in order under Lewisville School District, now Lafayette County School District. I would appreciate any involvement on your part in determining its legality.

We as our children's parents only want the best education, safety, and discipline our children can receive. It is my top priority. I do not believe these demands can be met at the Lafayette County School District. I am basing my beliefs on facts. My school of choice (Taylor School) has a proven track record. Based on the last 3 years, Taylor School has ranked in the top 25 out of 247 school districts. Lafayette County has been at the bottom, ranking 219, 216, and 209 out of the same 247 districts in the last 3 years. Lafayette County has had several reported teacher/student molestation occurrences along with reported illegal drug activity on school campus. We instill stability, respect with accountability and discipline in our home and expect the same in our schools. I believe these traits can be enforced in Taylor Schools and not in the Lafayette County School District.

I am asking that this desegregation order that Lafayette County School District is using to opt of the Public School Choice Act of 2015 be dismissed based on the fact that the order was enforced under the Lewisville School District which no longer exists. I am also requesting a hearing if further appealing is needed to get my girls in my school of choice.

Sincerely,

Chad and Marcy Teague

COPY

To Whom It May Concern,

May 18, 2015

My name is Tommy Dean, and I am writing on behalf of myself and my wife, Connie Dean. We have lived in Lafayette County for 50+ years. We applied for the Public School Choice Act of 2015 for our 11 year old daughter to attend Spring Hill School District. Unfortunately, we were rejected by Spring Hill School District, due to Lafayette County School District filing a 1992 Desegregation Order with the Arkansas Department of Education. However, the 1992 Desegregation Order was filed for the Lewisville School District NOT Lafayette County School District. Lewisville/Stamps School Districts were consolidated in July 2003. Therefore, in 1992 (the year the Desegregation Order was created) the Lafayette School District was not in existence. Our question, as CONCERNED parents, is: HOW CAN A 1992 LEWISVILLE DESEGREGATION ORDER BE RECOGNIZED AS SUBMISSABLE TO THE ARKANSAS DEPARTMENT OF EDUCATION FOR LAFAYETTE SCHOOL DISTRICT? I have read the Desegregation Order, and to the best of my knowledge, it is concerning the discrimination of Lewisville School District faculty and employees, not the discrimination involving students. My wife and I feel it is our right to appeal the decision for the betterment of our daughter's education and well-being. I have done much research and found Lafayette County School District (resident school district) test scores and rankings, per websites, are not comparable to Spring Hill School District (non-resident school district). This is one of the reasons we are requesting that our daughter attend Spring Hill School District for the 2015-2016 school year and upcoming school years. The non-resident school district, Spring Hill School District, not only is achieving academically, but also, has outstanding parental involvement, a variety of extra-curriculum activities, which are supported by the students, faculty, administration, parents, and community. Also, safety/discipline issues are handled efficiently and diligently.

My wife and I do not want our daughter to attend a school that we have to worry about her safety or education. Lafayette County School District has many safety/discipline issues ranging from gangs, bullying, drugs and school employees having sexual misconduct acts with students. We have knowledge of at least 3 cases of school employees having criminal charges filed against them for sexual misconduct acts with students. THIS IS UNACCEPTABLE BEHAVIOR TO US! Furthermore, Lafayette County School District has numerous other issues that need to be reviewed besides academics, safety, and lack of discipline.

COPY

At this time, Tommy and Connie Dean, parents of a minor child, are appealing the rejection letter from Spring Hill School District, because we want the best quality education and a sound foundation of morals and values for our child.

Please accept this letter requesting an appeal hearing for Tommy and Connie Dean to remove our child from our resident school district, Lafayette County School District, to a non-resident school district, Spring Hill School District, under the Public School Choice Act of 2015.

Sincerely,

Tommy and Connie Dean

1127 Lafayette 31

Stamps, AR 71860

870-904-7542 (Tommy's Cell)

870-904-9722 (Connie's Cell)

870-533-4145 (Home after 6 p.m.)

To Whom It May Concern, May 19, 2015

We are Harley and Holly Tatom. We are the parents of three children, a 10 year old daughter, two year old son, and a one month old son. We have lived in Lafayette County for over 20 years. We applied for our daughter to attend Spring Hill School District, a non-resident school district, for 2015-2016 school year. Unfortunately, we received a rejection letter from Spring Hill School District, because Lafayette County School District, our resident school district, opted out of the Public School Choice Act of 2015. My wife and I have researched the rejection decision, and found the decision was based on a 1992 Lewisville School District Desegregation Order. The 1992 Lewisville School District Desegregation Order, based on our findings, is focused on discrimination against teachers and school employees not discrimination against students. Lewisville and Stamps School Districts consolidated in July 2003 to create Lafayette County School District. Therefore, we, Harley and Holly Tatom, are questioning the Desegregation Order Lafayette County School District has filed with the Arkansas Department of Education. How can Lafayette County School District be able to opt out of the Public School Choice Act of 2015 under a 1992 Lewisville School District Desegregation Order, when Lewisville School District hasn't been a school district over 10 years? It appears to us, as parents, Lafayette County School District **DOES NOT** have an **ACTIVE** Desegregation Order filed with the Arkansas Department of Education.

My wife and I filed our Public School Choice Act of 2015 with Spring Hill School District to remove our daughter for educational, safety, and lack of discipline reasons within the Lafayette School District. We went to educational websites to discover Lafayette County School District is ranked much lower than the other school districts in Southwest Arkansas. As for the safety and lack of discipline reasons, we have first- hand experience with these issues. Our daughter has been bullied for the biggest part of this school year. We have called numerous times and made several trips to the school, going thru the proper procedures: speaking to the teacher, principal, and superintendent, still to this day, nothing has been done to STOP THE BULLYING! This is not only lack of discipline, but VERY MUCH a safety issue!

Therefore, Harley and Holly Tatom, parents of minor children, are appealing the decision of the rejection letter from Spring Hill School District, because we, as parents, are striving for a safe environment for our children to have the opportunity to learn and achieve academic excellence.

Please accept this letter requesting an appeal hearing for Harley and Holly Tatom to remove our child from our resident school district, Lafayette County School District, to a non-resident school district, Spring Hill School District, under the Public School Choice Act of 2015.

Sincerely,

Harley and Holly Tatom

531 Lafayette 41

Buckner, AR 71827

870-953-0209 (Harley's Cell)

May 15, 2015

Samuel Ledbetter

Four Capital Mall

Little Rock, AR 72201

Dear Mr. Ledbetter,

I would like to like to introduce myself. My name is Angie Vickers. I am writing on behalf of myself and my husband Mike Vickers. We applied for our children to be able to attend Spring Hill School District in Hope Arkansas using the School Choice Act. We currently live in Buckner, AR which is in Lafayette County. We were denied the option of school choice because Lafayette County School District has declared exemption from the Public School Choice Act of 2015 due to the provisions of a desegregation court order or plan. I personally looked on the Department of Education website and found the letter written from Lafayette County School District's attorney, Allen Roberts, along with the supporting document from a lawsuit that they consider a desegregation lawsuit. I am not a lawyer; however, while looking through the lawsuit it seemed to pertain to employees and the need to make sure people were not being discriminated against in employment at this district- not in discrimination involving students. I also wanted to check on the fact that this lawsuit was from 1992. At that time there was no Lafayette County School District. In searching for information I found the agenda from the State Board of Education dated February 10, 2003 requesting that each original district (Lewisville and Stamps School Districts) form a new district effective July 1, 2003. If this lawsuit is from a time before there ever was a Lafayette County School District, how can it apply to the School Choice Act now and how can Lafayette County School District use it in order to avoid complying with the Act?

There are many reasons that we would like to be able to use the School Choice Act in order to send our children to Spring Hill Schools. First, I am currently a teacher at Spring Hill School. We have a son that is graduating this year and two younger children that attend Spring Hill Elementary. I utterly enjoy teaching at this school district. I plan to teach for many years to come; however, due to some recent health problems I am not sure what the future will hold for me. We would like for our children to be able to continue their education at Spring Hill Schools

in the event that I am no longer able to teach. The reasons for this is that the school community is outstanding, respect with accountability and discipline is part of the school culture, and this is where my children have their roots, memories, and belonging. In today's society stability is a treasure. We want the stability of our children to remain intact. They are thriving at Spring Hill Schools! Next, the school ranking of Lafayette County Schools compared to Spring Hill Schools concerns me as far as the education that my children would receive. I am basing this on the districts report cards. Next year for example our son will be in third grade and our daughter will be in seventh grade. The AMO reported for third grade literacy and math for Lafayette County is 63.47/74.15. The AMO reported for the same area for Spring Hill Schools is 90.03/91.67. The AMO reported for seventh grade literacy and math for Lafayette County is 63.47/74.15. The AMO reported for the same area for Spring Hill Schools is 90.03/91.67. The graduation rate shown on the respective reports for Lafayette County Schools is 80.4% and 97.8% for Spring Hill Schools. Finally, the safety of our children is of great concern for us. There have been a few publicized instances concerning employees of Lafayette County Schools that would cause us great concern if our children attended classes there.

In conclusion, **we respectfully ask that we be granted a hearing to reconsider the application**. Thank you very much for your time in reading this letter, and we look forward to your reply.

Sincerely,

Mike and Angie Vickers

pring Hill School District - 2906000

NDICATOR: School Performance

	2011-2012			2012-2013			2013-2014		
	School	District	State	School	District	State	School	District	State
Graduation Rate (*State Goal 85%)									
Graduation Rate Combined		93.8 %	84.1 %		[illegible]	84.9 %		[illegible]	86.9 %
Graduation Rate for Targeted Acheivement Gap Group		[illegible]	79.3 %		[illegible]	80.5 %		[illegible]	82.9 %
Graduation Rate African American		[illegible]	78.1 %		[illegible]	78.1 %		[illegible]	81.0 %
Graduation Rate Hispanic		100.0 %	78.0 %		[illegible]	81.8 %		[illegible]	84.5 %
Graduation Rate Caucasian		[illegible]	87.0 %		[illegible]	87.8 %		[illegible]	89.3 %
Graduation Rate Economically Disadvantaged		[illegible]	79.1 %		[illegible]	80.3 %		[illegible]	82.7 %
Graduation Rate Students with Disabilities		[illegible]	79.2 %		[illegible]	80.4 %		[illegible]	83.1 %
Graduation Rate Limited English Proficient		[illegible]	77.3 %		[illegible]	80.8 %		[illegible]	84.1 %
Grade Inflation Rate		[illegible]	—		[illegible]	2.51 %		[illegible]	7 %
College Remediation Rate		[illegible]	49.4 %		[illegible]	43.0 %		[illegible]	45.4 %
Enrollment									
October 1 Enrollment		[illegible]	468,656		[illegible]	471,867		[illegible]	474,995

IDICATOR: School Performance

	2011-2012			2012-2013			2013-2014		
	School	District	State	School	District	State	School	District	State
raduation Rate (*State Goal 85%)									
aduation Rate Combined	82.6 %	[illegible]	84.1 %	96.9 %	[illegible]	84.9 %	100.0 %	[illegible]	86.9 %
radvation Rate for Targeted Acheivement Gap Group	70.0 %	[illegible]	79.3 %	88.9 %	[illegible]	80.5 %	100.0 %	[illegible]	82.9 %
raduation Rate African American	66.7 %	[illegible]	78.1 %	100.0 %	[illegible]	78.1 %	100.0 %	[illegible]	81.0 %
raduation Rate Hispanic	0.0 %	[illegible]	78.0 %	0.0 %	[illegible]	81.8 %	0.0 %	[illegible]	84.5 %
raduation Rate Caucasian	85.0 %	[illegible]	87.0 %	96.3 %	[illegible]	87.6 %	100.0 %	[illegible]	89.3 %
raduation Rate Economically Disadvantaged	79.0 %	[illegible]	79.1 %	68.9 %	[illegible]	80.3 %	100.0 %	[illegible]	82.7 %
raduation Rate Students with Disabilities	50.0 %	[illegible]	79.2 %	0.0 %	[illegible]	80.4 %	100.0 %	[illegible]	83.1 %
raduation Rate Limited English Proficient	0.0 %	[illegible]	77.3 %	0.0 %	[illegible]	80.8 %	0.0 %	[illegible]	84.1 %
rade Inflation Rate	—	[illegible]	—	0 %	[illegible]	2.51 %	0 %	[illegible]	7 %
ollege Remediation Rate	—	[illegible]	49.4 %	26.3 %	[illegible]	43.0 %	55.6 %	[illegible]	45.4 %
nrollment									
ctober 1 Enrollment	152	[illegible]	468,656	149	[illegible]	471,867	144	970	474,995

RECEIVED 06-18-'15 22:24 FROM- TO- ADE Commisioner P0010/0011

Lafayette County School District - 3704000

INDICATOR: School Performance

	2011-2012			2012-2013			2013-2014		
	School	District	State	School	District	State	School	District	State
Graduation Rate (*State Goal 85%)									
Graduation Rate Combined		[illegible]	84.1 %		[illegible]	84.9 %		[illegible]	86.9 %
Graduation Rate for Targeted Achievement Gap Group		[illegible]	79.3 %		[illegible]	80.5 %		[illegible]	82.9 %
Graduation Rate African American		[illegible]	78.1 %		[illegible]	78.1 %		[illegible]	81.0 %
Graduation Rate Hispanic		[illegible]	78.0 %		[illegible]	81.8 %		100.0 %	84.5 %
Graduation Rate Caucasian		[illegible]	87.0 %		[illegible]	87.6 %		[illegible]	89.3 %
Graduation Rate Economically Disadvantaged		[illegible]	79.1 %		[illegible]	80.3 %		[illegible]	82.7 %
Graduation Rate Students with Disabilities		[illegible]	79.2 %		[illegible]	80.4 %		100.0 %	83.1 %
Graduation Rate Limited English Proficient		[illegible]	77.3 %		[illegible]	80.8 %		0.0 %	84.1 %
Grade Inflation Rate		[illegible]	---		[illegible]	2.51 %		[illegible]	7 %
College Remediation Rate		[illegible]	49.4 %		[illegible]	43.0 %		[illegible]	45.4 %
Enrollment									
October 1 Enrollment		[illegible]	488,656		[illegible]	471,867		[illegible]	474,995

RECEIVED 06-18-'15 22:24 FROM- TO- ADE Commisioner P0011/0011

RESPONSE

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Gary Hines, Superintendent
506 E. Pine St.
Taylor, AR 71861

RECEIVED
COMMISSIONER'S OFFICE

MAY 22 2015

DEPARTMENT OF EDUCATION

May 19, 2015

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

Re: Appeals from Richard & Melinda Morton and Chad & Marcy Teague

To Whom It May Concern:

The Emerson-Taylor-Bradley School District has no additional information, evidence or arguments supporting its rejection of the students' applications. The rejection was based solely on the claim of a desegregation order by the Lafayette County School District and its listing on the ADE's website of such. If the State Board of Education determines that the LCSD is not under an enforceable desegregation order, the Emerson-Taylor-Bradley School District will reconsider the school choice applications from those submitted whose resident district is the Lafayette County School District.

Respectfully,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Cc: Richard & Melinda Morton
Cc: Chad & Marcy Teague

RECEIVED
ATTORNEY'S OFFICE

MAY 22 2015

DEPARTMENT OF EDUCATION
GENERAL DIVISION

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Gary Hines, Superintendent
506 E. Pine St.
Taylor, AR 71861

RECEIVED
COMMISSIONER'S OFFICE

MAY 26 2015

DEPARTMENT OF EDUCATION

May 19, 2015

RECEIVED
ATTORNEY'S OFFICE

MAY 26 2015

DEPARTMENT OF EDUCATION
GENERAL DIVISION

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

Re: Appeals

To Whom It May Concern:

The Emerson-Taylor-Bradley School District has no additional information, evidence or arguments supporting its rejection of the students' applications. The rejection was based solely on the claim of a desegregation order by the Lafayette County School District and its listing on the ADE's website of such. If the State Board of Education determines that the LCSD is not under an enforceable desegregation order, the Emerson-Taylor-Bradley School District will reconsider the school choice applications from those submitted whose resident district is the Lafayette County School District.

Respectfully,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Cc: Richard & Melinda Morton
Cc: Chad & Marcy Teague
Cc: Brad & Angela Lloyd
Cc: Joseph & Sharon Black
Cc: John & Tiffanie Green

EMERSON-TAYLOR-BRADLEY
SCHOOL DISTRICT
Office of Superintendent
506 E. Pine St.
Taylor, AR 71861

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ZIP 71861
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Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

7220110199 9

FUQUA CAMPBELL, P.A.
ATTORNEYS AT LAW

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ABBIE DECKER RUCKER
PATRICK L. SPIVEY
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Direct Dial: (501) 975-7122
Email: wmoore@fc-lawyers.com

June 19, 2015

VIA HAND-DELIVERY
Mr. Jeremy Lasiter
Attn: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, Arkansas 72201

Re: Lafayette County School District (Resident District)
Emerson-Taylor-Bradley School District (Non-Resident District)
Public School Choice Act of 2015 Appeals submitted by the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington families

Dear Mr. Lasiter:

Allen Roberts and I represent Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003.

LCSD is the resident district involved in the aforementioned Public School Choice Act of 2015 appeals filed by the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington families, all of whom applied for transfer to Emerson-Taylor-Bradley School District (ETBSD). ETBSD correctly denied all of the transfer requests based on LCSD's declaration of a conflict pursuant to Ark. Code Ann. 6-18-1906(a). In compliance with Ark. Code Ann. 6-13-113(b) and 6-18-1906(a)(2), LCSD has submitted to the Department of Education a copy of the consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div., which is a desegregation court order that conflicts with LCSD's participation in school choice.

Pursuant to your notice of hearing letter dated June 3, 2015, I would like to submit the following materials for consideration at the State Board of Education's July 9, 2015 meeting:

1. The resolution adopted by LCSD's board regarding LCSD's decision not to participate in school choice (**Exhibit 1**).
2. The April 21, 2015 letter from Allen Roberts regarding LCSD's decision not to participate in school choice (**Exhibit 2**).
3. The March 4, 1993 consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div (**Exhibit 3**).
4. Former Attorney General Mike Beebe's September 24, 2003 opinion regarding the State Board of Education's authority to construe court orders (**Exhibit 4**).
5. The March 18, 2014 minutes of the LCSD School Board, noting Brad Lloyd's motion in favor of LCSD not participating in school choice, which passed by a vote of 6-0 (**Exhibit 5**).
6. The March 17, 2015 minutes of the LCSD School Board, noting Brad Lloyd's second of a motion in favor of LCSD not participating in school choice, which passed by a vote of 6-0 (**Exhibit 6**).

The appeals question the validity of the order in *Turner*. There is no indication from the 2015 Act (nor from its predecessor, the Public School Choice act of 2013) that the legislature intended for the State Board of Education to review the propriety of a conflict claimed by a district pursuant to Ark. Code Ann. 6-18-1906(a). There is no provision in the Act that authorizes the Department or the State Board to approve or deny a district's submission. The Act only provides opportunity for a district to claim a conflict and provide the Department of Education with a copy of the conflicting order, which LCSD has done.

An Attorney General's opinion issued in 2003 regarding the School Choice Act of 1989 directly addresses the question of whether the State Board should review and interpret federal court orders. On September 24, 2003, the Attorney General's office wrote to then ADE director, Ray Simon, in Opinion No. 2003-269. Mr. Simon had asked whether or not the State Board of Education had the legal authority to decide whether a district could accept students outside the parameters of the 1989 Act "as long as the district is in compliance with the requirements of the assumed U.S. District Court Order?" (Exhibit 4, p. 2). Attorney General Beebe makes clear in the opinion that the State Board of Education should not seek to interpret federal court orders, stating:

> In my opinion the state Board of Education does not have authority to determine that a school district 'is in compliance with the Arkansas School Choice Act' where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision.

The opinion concludes with the note that disputes involving construction of federal court orders are properly left to the parties themselves, their respective counsels, or if necessary, to the issuing court itself. (Exhibit 4, p. 5).

The *Turner* case was filed by a black staff member and black parents of children attending Lewisville School District. (Exhibit 3, p. 1). Paragraph 4 of the decree specifically references "racial discrimination in . . . student assignment." (Exhibit 3, p. 2). Paragraphs 2 and 3 also address discrimination against students on the basis of race. (Exhibit 3, p. 2). Paragraph 12 requires the desegregation of all classes, programs, and activities offered by the district. (Exhibit 3, p. 5). The consent decree concludes by stating, in paragraph 18, that "the Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." (Exhibit 3, p. 6). As noted by Mr. Roberts in Exhibit 2, the desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (i.e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding. To the best of LCSD's knowledge, this is the last order entered in the case. There are no orders dismissing the case or declaring that LCSD is unitary.

The structure of the Act also strongly suggests that the assertion of a conflict is not appealable because there is no provision in either the Act or the emergency rules that the resident district do anything when the non-resident district denies the application. This logically should mean that appeals are limited to issues such as enrollment caps and capacity issues. The applications were denied solely due to LCSD's conflict, not due to capacity or enrollment caps.

The Act also lacks any provision for the resident district to be heard as a party on appeal. If an appeal of the asserted conflict was contemplated, then party status would have been accorded the resident district. Because it was not, consideration of an appeal on those grounds without providing for party status for the resident district would result in a denial of procedural and substantive due process to the resident district.

The appeals state various reasons why these families would like to leave LCSD and enroll their children in ETBSD. However, none of those reasons override the federal court order presented by LCSD, as permitted by the Act.

For the foregoing reasons, the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington appeals should be denied. We appreciate your consideration of this response and request an opportunity to be heard at the hearing.

Respectfully submitted,

Whitney F. Moore and Allen P. Roberts
Attorneys for Lafayette County School District

cc: Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Allen P. Roberts
Allen P. Roberts, P.A.
P.O. Box 280
Camden, AR 71711

Gary Hines, Superintendent
Emerson-Taylor-Bradley School District
506 E. Pine Street
Taylor, AR 71861

Joseph and Sharon Black
1204 Hilltop Drive
Stamps, AR 71860

Jamie Gardner
176 Lafayette 27
Stamps, AR 71860

Tiffanie Green
476 Lafayette 43
Buckner, AR 71827

Brad and Angela Lloyd
698 Lafayette 28
Lewisville, AR 71845

Richard and Melinda Morton
P.O. Box 232
Lewisville, AR 71845

Chad and Marcy Teague
1283 Lafayette 31
Stamps, AR 71860

Michelle Wheelington
1520 Nevada 3
Stamps, AR 71860

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 1

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

EXHIBIT 2

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District

Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

EXHIBIT 3

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

EXHIBIT 3

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

EXHIBIT 3

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

EXHIBIT 3

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

EXHIBIT 3

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

EXHIBIT 3

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

U. S. DISTRICT JUDGE

MAR 05 1993

CHRIS R. JOHNSON, CLERK DATE: March 4, 1993

Deputy Clerk

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72014
LASER, SHARP, MAYES, WILSON, BUFFORD & WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP.

on _____ by _____

EXHIBIT 3

Opinion No. 2003-269

September 24, 2003

Mr. Raymond Simon, Director
Arkansas Department of Education
#4 Capitol Mall
Little Rock, Arkansas 72201-1071

Dear Mr. Simon:

I am writing in response to your request for an opinion on several questions relating to the "Arkansas Public School Choice Act of 1989," as amended. Specifically, you pose the following questions, which I have numbered below:

1. Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

2. In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

3. Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance

EXHIBIT 4

> with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

RESPONSE

I cannot provide an answer to your first and second questions, because the answer will depend upon the provisions of the applicable U.S. District Court order. In my opinion the answer to your third question is "no," the State Board of Education does not have this authority.

Question 1-- Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

Question 2-- In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

The "Arkansas Public School Choice Act of 1989" is codified at A.C.A. § 6-18-206. It has been amended several times since its original adoption, most recently by Act 1272 of 2003. This most recent act requires all school districts to participate in public school choice, rather than making such participation optional with each school board, as under prior law. The applicable statute sets out a procedure for a student or his or her parent or guardian to make application for a transfer of school districts. The statute also sets out, among other things, requirements pertaining to student transportation and the treatment of "state equalization aid" with regard to transferring students. Subsection (f) of the statute, which you reference in your request, provides as follows:

> (f) The provisions of this section and all student choice options created in this section are subject to the following limitations:
>
> (1) No student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that

EXHIBIT 4

percentage in the student's resident district except in the circumstances set forth in subdivisions (2) and (4) of this subsection;

(2) A transfer to a district is exempt from the restriction set forth in subdivision (f)(1) of this section if the transfer is between two (2) districts within a county, and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and non-resident district remain within an acceptable range of the county's overall minority percentage in the student's race and majority percentages of school population as set forth by the department;

(3) The department shall, by the filing deadline each year, compute the minority percentage in the student's race and majority percentages of each county's public school population from the October Annual School Report and shall then compute the acceptable range of variance from those percentages for school districts within each county. In establishing the acceptable range of variance, the department is directed to use the remedial guideline established in Little Rock School District v. Pulaski County Special School District of allowing an overrepresentation or underrepresentation of black or white students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance. In establishing the acceptable range of variance for school choice, the department is directed to use the remedial guideline of allowing an overrepresentation or underrepresentation of minority or majority students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance;

(4) A transfer is exempt from the restriction set forth in subdivision (f)(1) of this section if each school district within the county does not have a critical mass of minority percentage in the student's race students of more than ten percent (10%) of any single race;

(5) *In any instance where the foregoing provisions would result in a conflict with a desegregation court order or a district's court-*

EXHIBIT 4

> *approved desegregation plan, the terms of the order or plan shall govern;*
>
> (6) The department shall adopt appropriate rules and regulations to implement the provisions of this section; and
>
> (7) The department shall monitor school districts for compliance with this section.

A.C.A. § 6-18-206 (f), as amended by Act 1272 of 2003 (emphasis added).

The emphasized language of subsection (f)(5) above provides for the supremacy of a desegregation orders or court-approved desegregation plans in the case of a "conflict" between such orders and plans, on the one hand, and the "foregoing" provisions of A.C.A. § 6-18-206(f), which outline racial limitations and exceptions on transfers. Conceivably, therefore, a federal court order could, depending upon its provisions, have controlling effect over the provisions of A.C.A. § 6-18-206(f). The question in each instance will be whether the statutory provisions above actually conflict with any such a federal court order. Resolution of that type of question will depend upon the provisions of the order in question and any and all other pertinent facts and laws. I cannot determine this issue in the context of an official Attorney General opinion. As one of my predecessors stated in Op. Att'y Gen. 95-066:

> The construction of such [federal court] orders and agreements is best left to the parties themselves, or ultimately to the federal court. This office has not been provided with a copy of any federal court order or settlement agreement, and cannot, in the context of an official opinion of the Attorney General, especially where the state is not a party, presume to dictate actions to be taken under the rubric of such documents.

Id. at 2. *See also* Op. Att'y Gen. 94-139 (declining to interpret a federal court order and stating that "reference to th[e] particular court order, and possibly clarification from the federal court, would be necessary to resolve the issue conclusively).

I am therefore unable to render an opinion on your first and second questions above.

EXHIBIT 4

Question 3-- Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

Subsection (g) of A.C.A. § 6-18-206 provides that: "[t]he state board shall be authorized to resolve disputes arising under subsections (b) – (f) of this section."

In my opinion the State Board of Education does not have authority to determine that a school district "is in compliance with the Arkansas School Choice Act" where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision. *Cf. State Police v. McCall*, 98 A.D.2d 921, 470 N.Y.S.2d 916 (1983) ("State Human Rights Appeal Board" (a state administrative agency), did not exceed its jurisdiction in construing federal district court order, but only because its decision was supported by other documentary proof and board did not base its decision solely on an interpretation of federal court order).

Disputes involving construction of federal court orders are properly left to the parties thereto, and their respective counsels, or if necessary, to the issuing court itself.

Deputy Attorney General Elana C. Wills prepared the foregoing opinion, which I hereby approve.

Sincerely,

MIKE BEEBE
Attorney General

MB:ECW/cyh

EXHIBIT 4

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 18, 2014, 6:00 P.M.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday, March 18, 2014, 6:00 P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Johnny Brown, Stacey Modisette, Tonya Clark, and Frank Herrera.

President Lindsay Nutt called the meeting to order.

Ms. Stacey Modisette made a motion to approve the February 18, 2014 Regular Board minutes. Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Johnny Brown made a motion to approve the monthly financial obligations. Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0.

Ms. Stacey Modisette made a motion to accept the 2014-2015 Licensed Personnel Salary Schedule as presented. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

Mr. Brad Lloyd made a motion to approve the deletion of fixed assets as presented. Mr. Johnny Brown seconded the motion. Motion passed. Vote 6-0.

A record of production payments received from Weiser Brown Operation Company was presented for board review for informational purposes only.

Ms. Stacey Modisette made a motion to accept the 2014-2015 Calendar for LCSD. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Keith presented information from Strategos International regarding professional development and safety training for the 2014-2015 school year. Mr. Brad Lloyd made a motion to have this company provide the necessary professional development and training for the 2014-2015 school year. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Keith presented a resolution for Lafayette County School District to opt out of participation in the Public School Choice Act of 2013. Mr. Brad Lloyd made a motion to approve the Resolution stating that Lafayette County School District shall not participate in public school choice as defined by Ark. Code Ann. $$ 6-18-1901, et seq. Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0.

Mr. Keith gave an update of the facilities stating that a dishwasher is needing to be replaced in the High School Cafeteria. Bids are currently being accepted. Mr. Johnny Brown made a motion to let Mr. Keith handle this situation as necessary. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 5

The Board entered Executive Session. The Board re-entered Open Session.

Ms. Stacey Modisette made a motion to approve additional duties for Bobby Clark-Girls track coach. Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0

Mr. Johnny Brown made a motion to hire Administrative staff:

- Opal Anderson, High School Principal
- Betsy Griffin, Elementary Principal
- David Downs, Asst Principal/Dean
- Cheryl McMahen, Asst Elem. Principal
- Janet Walker, Federal Programs Coordinator

Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0

Ms. Tonya Clark made a motion to accept the resignation of Robert Haworth, Social Studies teacher. Mr. Johnny Brown seconded the motion. Motion passed. Vote 6-0

Mr. Brad Lloyd made a motion to accept the resignation of Joyce Smith and Michael Hamilton, High School Custodians. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0

There being no further business. Mr. Brad Lloyd made the motion to adjourn. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0

Lindsay Nutt
President

Stacey Modisette
Secretary

EXHIBIT 5

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 6

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 6

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 6

ASSOCIATED DOCUMENTS

Rejected
Mailed 5-6-15

APPLICATION FOR TRANSFER TO A NON-RESIDENT DISTRICT
"ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"

(Must be submitted to Non-Resident Districts)

APPLICANT INFORMATION	
Applicant Name K[redacted] Teague	Date and Time Received by Non-Resident District:
Date of Birth [redacted]	Gender Male ☐ Female ☑
	GRADE 7th
Does the applicant require special needs or programs? Yes ☐ No ☑	
Is applicant currently under expulsion? Yes ☐ No ☑	

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races	☐				
African American	☐	Asian	☐	Hispanic	☐
Native American/ Native Alaskan	☐	Native Hawaiian/ Pacific Islander	☐	White	☑

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name Lafayette County School District County Name Lafayette County
Address 712 Chestnut St. Lewisville, AR 71845 (Highschool - 1209 Alexander Ln., Stamps, AR 71860
Phone 870-533-4164

NON-RESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name Taylor High School County Name Columbia County
Address 506 East Pine St. Taylor, AR 71861
Phone 870-694-2251
Does the applicant already have a sibling or step-sibling in attendance in this district? NO

PARENT OR GUARDIAN INFORMATION OF APPLICANT

Name Chad + Marcy Teague Home Phone [redacted]
Address [redacted] Work Phone [redacted]
Stamps, AR 71860
Parent/Guardian Signature Marcy Teague Date 4-21-15

Pursuant to standards adopted by a non-resident school board a non-resident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. A school district receiving transfers under the School Choice Act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion or disability. However, a non-resident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Act 560 of 2015 (Public School Choice Act). Priority will be given to applicants with siblings or step-siblings attending the district. The non-resident district shall accept credits toward graduation that were awarded by another district and award a diploma to a non-resident applicant if the applicant meets the non-resident district's graduation requirements. This application must be filed in the non-resident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the non-resident district. Any district receiving this application must retain it in its district records for at least one (1) year from the date it is received, for data verification and general recordkeeping purposes.

DISTRICT USE ONLY

Application Accepted ☐ Rejected ☑
Date Notification Sent to Parent/Guardian of Applicant 5-6-15
Date Notification Sent to Resident District 5-21-15

APPLICATION FOR TRANSFER TO A NON-RESIDENT DISTRICT
"ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"

(Must be submitted to Non-Resident Districts)

APPLICANT INFORMATION	
Applicant Name [redacted] TEAGUE	Date and Time Received by Non-Resident District:
Date of Birth [redacted]	Gender Male ☐ Female ☑
	GRADE Kindergarten
Does the applicant require special needs or programs? Yes ☐ No ☑	
Is applicant currently under expulsion? Yes ☐ No ☑	

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races	☐				
African American	☐	Asian	☐	Hispanic	☐
Native American/ Native Alaskan	☐	Native Hawaiian/ Pacific Islander	☐	White	☑

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name Laf. Co. School Dist. (Ele.)	County Name Lafayette Co.
Address 208 W. 7th Lewisville, AR 71845	
Phone 870-921-4275	

NON-RESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name Taylor Elementary School	County Name Columbia
Address 506 E. Pine St., Taylor, AR 71861	
Phone 870-694-2251	

Does the applicant already have a sibling or step-sibling in attendance in this district? NO

PARENT OR GUARDIAN INFORMATION OF APPLICANT

Name Chad or Marcy Teague	Home Phone [redacted]
Address [redacted]	Work Phone [redacted]
Stamps, AR 71860	
Parent/Guardian Signature Marcy Teague	Date 4-21-15

Pursuant to standards adopted by a non-resident school board a non-resident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. A school district receiving transfers under the School Choice Act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion or disability. However, a non-resident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Act 560 of 2015 (Public School Choice Act). Priority will be given to applicants with siblings or step-siblings attending the district. The non-resident district shall accept credits toward graduation that were awarded by another district and award a diploma to a non-resident applicant if the applicant meets the non-resident district's graduation requirements. This application must be filed in the non-resident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the non-resident district. Any district receiving this application must retain it in its district records for at least one (1) year from the date it is received, for data verification and general recordkeeping purposes.

DISTRICT USE ONLY

Application	Accepted ☐	Rejected ☑	
Date Notification Sent to Parent/Guardian of Applicant	5-6-15		
Date Notification Sent to Resident District	5-21-15		

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.*e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

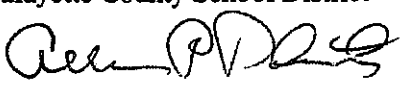
In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District



Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
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Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP,

on _____ by _____

SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection and applies for a school choice transfer under § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(3) A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under subdivision (c)(2) of this section may complete all remaining school years at the nonresident district.

SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to read as follows:

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district ~~with a copy to~~ ,which shall notify the resident district of the filing of the application;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) A nonresident district that receives an application under subsection (a) of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

(c) A nonresident district shall review and make a determination on each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

1 ~~subsection is irrevocable for one (1) year from the date the school district~~
2 ~~notifies the Department of Education of the declaration of exemption.~~
3 ~~(B) After each year of exemption, the board of directors~~
4 ~~may elect to participate in public school choice under this section if the~~
5 ~~school district's participation does not conflict with the school district's~~
6 ~~federal court-ordered desegregation program.~~
7 ~~(3) A school district shall notify the department by April 1 if~~
8 ~~in the next school year the school district intends to:~~
9 ~~(A) Declare an exemption under this section; or~~
10 ~~(B) Resume participation after a period of exemption.~~
11 ~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit
12 on school choice transfers each school year from a school district, less any
13 school choice transfers into the school district, under this section of not
14 *more than three percent (3%) of the* ~~*school district's three-quarter average*~~
15 ~~*daily membership for the*~~ *enrollment that exists in the school district as of*
16 *October 15 of the immediately preceding school year.*
17 (B) For the purpose of determining the percentage of school
18 choice transfers under this subsection, siblings who are counted in the
19 numerator as transfer students shall count as one (1) student~~, and siblings~~
20 ~~who are counted in the denominator as part of the average daily membership~~
21 ~~shall count as one (1) student~~.
22 (C) A student eligible to transfer to a nonresident
23 district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count
24 against the cap of three percent (3%) of the resident or nonresident
25 district.
26 (2) Annually by ~~June 1~~ *December 15*, the department shall report
27 to each school district the net maximum number of school choice transfers for
28 the ~~current~~ next school year.
29 (3) If a student is unable to transfer due to the limits under
30 this subsection, the resident district shall give the student priority for a
31 transfer in the ~~following~~ first school year in which the district is no
32 longer subject to subdivision § (b)(1) of this section in the order that the
33 resident district receives notices of applications under § 6-18-1905, as
34 evidenced by a notation made by the district on the applications indicating
35 date and time of receipt.
36

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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A.C.A. § 6-18-1901

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A.C.A. § 6-18-1901

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*** through December 12, 2014. ***

Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1901

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A.C.A. § 6-18-1902

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904

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A.C.A. § 6-18-1905

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1906

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1907

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY				
Date and Time Received by Resident District:			Date and Time Received by Nonresident District:	
Resident District LEA #:			Nonresident District LEA#:	
Student's State Identification #:				
Application	Accepted		Rejected	
Reason for Rejection (If Applicable):				
Date Notification Sent to Parent/Guardian of Applicant:				
Date Notification Sent to Resident District :				

HEARING PROCEDURES

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

June 3, 2015

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

Richard and Melinda Morton
[redacted]
Lewisville, AR 71845

Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Gary Hines, Superintendent
Emerson-Taylor-Bradley Sch. Dist.
506 E. Pine Street
Taylor, AR 71861

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is tentatively scheduled to hear the above-referenced appeal(s) on **Thursday, July 9, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on June 19, 2015**.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

/signed/

Jeremy C. Lasiter
General Counsel

cc: Mr. Johnny Key, Commissioner of Education
Ms. Annette Barnes, Asst. Commissioner, Public School Accountability
State Board of Education Office

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

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APPEAL

May 14, 2015

RECEIVED
COMMISSIONER'S OFFICE
MAY 18 2015
DEPARTMENT OF EDUCATION

Arkansas State Board of Education,

Richard and Melinda Morton the parents of M[redacted] Morton applied for our daughter to attend Taylor School District in Taylor, Arkansas under the Arkansas School Choice Act of 2015. We live in Lewisville, Arkansas which is in Lafayette County School District. We were denied and we are appealing that decision. We were denied the option of school choice because Lafayette County School District has declared exemption from the School Choice Act due to a provision of desegregation court order or plan from 1992 with Lewisville School District. This desegregation lawsuit was pertaining to employees and the need to make sure people were not being discriminated against in employment at this district, it was not discrimination involving students. In 1992 there was not even a Lafayette County School District. On July 1, 2003 Lewisville School District and Stamps School District formed a new school district, Lafayette County School District. Since this lawsuit was from before there was even a Lafayette County School District how can it apply to the School Choice Act now, and how can Lafayette County School District use it in order to avoid complying with the School Choice Act? We are appealing this decision along with several other families that have also been denied in Lafayette County.

Thank You,

Richard W. Morton

Melinda Morton

Richard Morton

Melinda Morton

RECEIVED
ATTORNEY'S OFFICE
MAY 18 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Gary Hines, Superintendent

506 E. Pine St.
Taylor, AR 71861

May 6, 2015

Richard & Melinda Morton
[redacted]
Lewisville, AR 71845

Dear Richard & Melinda:

I regret to inform you that your application for Madison M. Morton to attend Taylor Schools for the 2015-2016 school year under the "Arkansas Public School Choice Act of 2015" has been rejected. The reason for the rejection is as follows:

You are a resident of the Lafayette County School District. According to the Arkansas Department of Education, LCSD has opted out of the Arkansas Public School Choice Act. You can find this information on the ADE's website at www.arkansased.org. Click on the "school choice" link under the Educational Options heading.

You have the right to appeal this decision to the Arkansas State Board of Education. For more information contact the Office of the Commissioner at 501-682-4203.

Sincerely,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

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Richard + Melinda Morton
[redacted]
Lewisville, AR. 71845

Office of the Commissioner
Attn. Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR. 72201

May 22, 2015

Office of the Commissioner
ATTN: Jeremy C. Lasiter
Four Capital Mall
Little Rock, AR 72201

RECEIVED
ATTORNEY'S OFFICE
MAY 29 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

RECEIVED
COMMISSIONER'S OFFICE
MAY 29 2015
DEPARTMENT OF EDUCATION

Dear Mr. Lasiter,

As per our phone conversation on May 21, 2015, the parents who were denied admission into the Taylor School District would like to request one appeal hearing. We were denied by Taylor based solely on the claim of a desegregation order by the Lafayette County School District. The parents who request one hearing are as follows:

Chad and Marcy Teague

Brad and Angela Lloyd

Richard and Mindy Morton

John and Tiffanie Greene

Jamie Gardner

Don and Michelle Wheelington

Thank you in advance for your cooperation in this request.

Sincerely,

Marcy Teague

Marcy Teague

[redacted]

MARCY TEAGUE
[redacted]
WITMER, PA 17860

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26 MAY 2015 PM 1 L

Office of the Commissioner
School Choice Appeals
ATTN: JEREMY C. LASITER
Four Capital Mall
LITTLE ROCK, AR 72201

72201101304

RESPONSE

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Gary Hines, Superintendent
506 E. Pine St.
Taylor, AR 71861

RECEIVED
COMMISSIONER'S OFFICE

MAY 22 2015

DEPARTMENT OF EDUCATION

May 19, 2015

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

Re: Appeals from Richard & Melinda Morton and Chad & Marcy Teague

To Whom It May Concern:

The Emerson-Taylor-Bradley School District has no additional information, evidence or arguments supporting its rejection of the students' applications. The rejection was based solely on the claim of a desegregation order by the Lafayette County School District and its listing on the ADE's website of such. If the State Board of Education determines that the LCSD is not under an enforceable desegregation order, the Emerson-Taylor-Bradley School District will reconsider the school choice applications from those submitted whose resident district is the Lafayette County School District.

Respectfully,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Cc: Richard & Melinda Morton
Cc: Chad & Marcy Teague

RECEIVED
ATTORNEY'S OFFICE

MAY 22 2015

DEPARTMENT OF EDUCATION
GENERAL DIVISION

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Gary Hines, Superintendent
506 E. Pine St.
Taylor, AR 71861

RECEIVED
COMMISSIONER'S OFFICE

MAY 26 2015

DEPARTMENT OF EDUCATION

May 19, 2015

RECEIVED
ATTORNEY'S OFFICE

MAY 26 2015

DEPARTMENT OF EDUCATION
GENERAL DIVISION

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

Re: Appeals

To Whom It May Concern:

The Emerson-Taylor-Bradley School District has no additional information, evidence or arguments supporting its rejection of the students' applications. The rejection was based solely on the claim of a desegregation order by the Lafayette County School District and its listing on the ADE's website of such. If the State Board of Education determines that the LCSD is not under an enforceable desegregation order, the Emerson-Taylor-Bradley School District will reconsider the school choice applications from those submitted whose resident district is the Lafayette County School District.

Respectfully,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Cc: Richard & Melinda Morton
Cc: Chad & Marcy Teague
Cc: Brad & Angela Lloyd
Cc: Joseph & Sharon Black
Cc: John & Tiffanie Green

EMERSON-TAYLOR-BRADLEY
SCHOOL DISTRICT
Office of Superintendent
506 E. Pine St.
Taylor, AR 71861

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Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

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FUQUA CAMPBELL, P.A.
ATTORNEYS AT LAW

DAVID M. FUQUA
PHIL CAMPBELL
J. BLAKE HENDRIX
ABBIE DECKER RUCKER
PATRICK L. SPIVEY
ERIC R. GRIBBLE*
DEIDRA PARISH**+
WHITNEY F. MOORE
HALEY HEATH BURKS
CHRISTOPHER M. STEVENS
KAYLEN S. LEWIS
SAMUEL C. BABER

* *Also Admitted in Missouri*
** *Also Admitted in Texas*

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ALLEN P. ROBERTS, of Counsel
MIKE MUNNERLYN, of Counsel
JAMES WILLIAM McLEOD, of Counsel +

+ 225 S. MAIN, SUITE 102
JONESBORO, ARKANSAS 72401
870.932.2177

Direct Dial: (501) 975-7122
Email: wmoore@fc-lawyers.com

June 19, 2015

VIA HAND-DELIVERY
Mr. Jeremy Lasiter
Attn: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, Arkansas 72201

Re: Lafayette County School District (Resident District)
Emerson-Taylor-Bradley School District (Non-Resident District)
Public School Choice Act of 2015 Appeals submitted by the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington families

Dear Mr. Lasiter:

Allen Roberts and I represent Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003.

LCSD is the resident district involved in the aforementioned Public School Choice Act of 2015 appeals filed by the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington families, all of whom applied for transfer to Emerson-Taylor-Bradley School District (ETBSD). ETBSD correctly denied all of the transfer requests based on LCSD's declaration of a conflict pursuant to Ark. Code Ann. 6-18-1906(a). In compliance with Ark. Code Ann. 6-13-113(b) and 6-18-1906(a)(2), LCSD has submitted to the Department of Education a copy of the consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div., which is a desegregation court order that conflicts with LCSD's participation in school choice.

Pursuant to your notice of hearing letter dated June 3, 2015, I would like to submit the following materials for consideration at the State Board of Education's July 9, 2015 meeting:

1. The resolution adopted by LCSD's board regarding LCSD's decision not to participate in school choice (**Exhibit 1**).
2. The April 21, 2015 letter from Allen Roberts regarding LCSD's decision not to participate in school choice (**Exhibit 2**).
3. The March 4, 1993 consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div (**Exhibit 3**).
4. Former Attorney General Mike Beebe's September 24, 2003 opinion regarding the State Board of Education's authority to construe court orders (**Exhibit 4**).
5. The March 18, 2014 minutes of the LCSD School Board, noting Brad Lloyd's motion in favor of LCSD not participating in school choice, which passed by a vote of 6-0 (**Exhibit 5**).
6. The March 17, 2015 minutes of the LCSD School Board, noting Brad Lloyd's second of a motion in favor of LCSD not participating in school choice, which passed by a vote of 6-0 (**Exhibit 6**).

The appeals question the validity of the order in *Turner*. There is no indication from the 2015 Act (nor from its predecessor, the Public School Choice act of 2013) that the legislature intended for the State Board of Education to review the propriety of a conflict claimed by a district pursuant to Ark. Code Ann. 6-18-1906(a). There is no provision in the Act that authorizes the Department or the State Board to approve or deny a district's submission. The Act only provides opportunity for a district to claim a conflict and provide the Department of Education with a copy of the conflicting order, which LCSD has done.

An Attorney General's opinion issued in 2003 regarding the School Choice Act of 1989 directly addresses the question of whether the State Board should review and interpret federal court orders. On September 24, 2003, the Attorney General's office wrote to then ADE director, Ray Simon, in Opinion No. 2003-269. Mr. Simon had asked whether or not the State Board of Education had the legal authority to decide whether a district could accept students outside the parameters of the 1989 Act "as long as the district is in compliance with the requirements of the assumed U.S. District Court Order?" (Exhibit 4, p. 2). Attorney General Beebe makes clear in the opinion that the State Board of Education should not seek to interpret federal court orders, stating:

> In my opinion the state Board of Education does not have authority to determine that a school district 'is in compliance with the Arkansas School Choice Act' where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision.

The opinion concludes with the note that disputes involving construction of federal court orders are properly left to the parties themselves, their respective counsels, or if necessary, to the issuing court itself. (Exhibit 4, p. 5).

The *Turner* case was filed by a black staff member and black parents of children attending Lewisville School District. (Exhibit 3, p. 1). Paragraph 4 of the decree specifically references "racial discrimination in . . . student assignment." (Exhibit 3, p. 2). Paragraphs 2 and 3 also address discrimination against students on the basis of race. (Exhibit 3, p. 2). Paragraph 12 requires the desegregation of all classes, programs, and activities offered by the district. (Exhibit 3, p. 5). The consent decree concludes by stating, in paragraph 18, that "the Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." (Exhibit 3, p. 6). As noted by Mr. Roberts in Exhibit 2, the desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (i.e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding. To the best of LCSD's knowledge, this is the last order entered in the case. There are no orders dismissing the case or declaring that LCSD is unitary.

The structure of the Act also strongly suggests that the assertion of a conflict is not appealable because there is no provision in either the Act or the emergency rules that the resident district do anything when the non-resident district denies the application. This logically should mean that appeals are limited to issues such as enrollment caps and capacity issues. The applications were denied solely due to LCSD's conflict, not due to capacity or enrollment caps.

The Act also lacks any provision for the resident district to be heard as a party on appeal. If an appeal of the asserted conflict was contemplated, then party status would have been accorded the resident district. Because it was not, consideration of an appeal on those grounds without providing for party status for the resident district would result in a denial of procedural and substantive due process to the resident district.

The appeals state various reasons why these families would like to leave LCSD and enroll their children in ETBSD. However, none of those reasons override the federal court order presented by LCSD, as permitted by the Act.

For the foregoing reasons, the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington appeals should be denied. We appreciate your consideration of this response and request an opportunity to be heard at the hearing.

Respectfully submitted,

Whitney F. Moore and Allen P. Roberts
Attorneys for Lafayette County School District

cc: Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Allen P. Roberts
Allen P. Roberts, P.A.
P.O. Box 280
Camden, AR 71711

Gary Hines, Superintendent
Emerson-Taylor-Bradley School District
506 E. Pine Street
Taylor, AR 71861

Joseph and Sharon Black
1204 Hilltop Drive
Stamps, AR 71860

Jamie Gardner
176 Lafayette 27
Stamps, AR 71860

Tiffanie Green
476 Lafayette 43
Buckner, AR 71827

Brad and Angela Lloyd
698 Lafayette 28
Lewisville, AR 71845

Richard and Melinda Morton
P.O. Box 232
Lewisville, AR 71845

Chad and Marcy Teague
1283 Lafayette 31
Stamps, AR 71860

Michelle Wheelington
1520 Nevada 3
Stamps, AR 71860

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 1

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

EXHIBIT 2

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District

Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

EXHIBIT 3

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

EXHIBIT 3

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

EXHIBIT 3

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

EXHIBIT 3

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

EXHIBIT 3

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

EXHIBIT 3

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

U. S. DISTRICT JUDGE

MAR 05 1993

CHRIS R. JOHNSON, CLERK DATE: March 4, 1993

Deputy Clerk

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72014
LASER, SHARP, MAYES, WILSON, BUFFORD & WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP.

on _____ by _____

EXHIBIT 3

Opinion No. 2003-269

September 24, 2003

Mr. Raymond Simon, Director
Arkansas Department of Education
#4 Capitol Mall
Little Rock, Arkansas 72201-1071

Dear Mr. Simon:

I am writing in response to your request for an opinion on several questions relating to the "Arkansas Public School Choice Act of 1989," as amended. Specifically, you pose the following questions, which I have numbered below:

1. Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

2. In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

3. Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance

EXHIBIT 4

> with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

RESPONSE

I cannot provide an answer to your first and second questions, because the answer will depend upon the provisions of the applicable U.S. District Court order. In my opinion the answer to your third question is "no," the State Board of Education does not have this authority.

Question 1-- Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

Question 2-- In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

The "Arkansas Public School Choice Act of 1989" is codified at A.C.A. § 6-18-206. It has been amended several times since its original adoption, most recently by Act 1272 of 2003. This most recent act requires all school districts to participate in public school choice, rather than making such participation optional with each school board, as under prior law. The applicable statute sets out a procedure for a student or his or her parent or guardian to make application for a transfer of school districts. The statute also sets out, among other things, requirements pertaining to student transportation and the treatment of "state equalization aid" with regard to transferring students. Subsection (f) of the statute, which you reference in your request, provides as follows:

> (f) The provisions of this section and all student choice options created in this section are subject to the following limitations:
>
> (1) No student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that

EXHIBIT 4

percentage in the student's resident district except in the circumstances set forth in subdivisions (2) and (4) of this subsection;

(2) A transfer to a district is exempt from the restriction set forth in subdivision (f)(1) of this section if the transfer is between two (2) districts within a county, and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and non-resident district remain within an acceptable range of the county's overall minority percentage in the student's race and majority percentages of school population as set forth by the department;

(3) The department shall, by the filing deadline each year, compute the minority percentage in the student's race and majority percentages of each county's public school population from the October Annual School Report and shall then compute the acceptable range of variance from those percentages for school districts within each county. In establishing the acceptable range of variance, the department is directed to use the remedial guideline established in Little Rock School District v. Pulaski County Special School District of allowing an overrepresentation or underrepresentation of black or white students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance. In establishing the acceptable range of variance for school choice, the department is directed to use the remedial guideline of allowing an overrepresentation or underrepresentation of minority or majority students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance;

(4) A transfer is exempt from the restriction set forth in subdivision (f)(1) of this section if each school district within the county does not have a critical mass of minority percentage in the student's race students of more than ten percent (10%) of any single race;

(5) *In any instance where the foregoing provisions would result in a conflict with a desegregation court order or a district's court-*

EXHIBIT 4

> *approved desegregation plan, the terms of the order or plan shall govern;*
>
> (6) The department shall adopt appropriate rules and regulations to implement the provisions of this section; and
>
> (7) The department shall monitor school districts for compliance with this section.

A.C.A. § 6-18-206 (f), as amended by Act 1272 of 2003 (emphasis added).

The emphasized language of subsection (f)(5) above provides for the supremacy of a desegregation orders or court-approved desegregation plans in the case of a "conflict" between such orders and plans, on the one hand, and the "foregoing" provisions of A.C.A. § 6-18-206(f), which outline racial limitations and exceptions on transfers. Conceivably, therefore, a federal court order could, depending upon its provisions, have controlling effect over the provisions of A.C.A. § 6-18-206(f). The question in each instance will be whether the statutory provisions above actually conflict with any such a federal court order. Resolution of that type of question will depend upon the provisions of the order in question and any and all other pertinent facts and laws. I cannot determine this issue in the context of an official Attorney General opinion. As one of my predecessors stated in Op. Att'y Gen. 95-066:

> The construction of such [federal court] orders and agreements is best left to the parties themselves, or ultimately to the federal court. This office has not been provided with a copy of any federal court order or settlement agreement, and cannot, in the context of an official opinion of the Attorney General, especially where the state is not a party, presume to dictate actions to be taken under the rubric of such documents.

Id. at 2. *See also* Op. Att'y Gen. 94-139 (declining to interpret a federal court order and stating that "reference to th[e] particular court order, and possibly clarification from the federal court, would be necessary to resolve the issue conclusively).

I am therefore unable to render an opinion on your first and second questions above.

EXHIBIT 4

Question 3-- Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

Subsection (g) of A.C.A. § 6-18-206 provides that: "[t]he state board shall be authorized to resolve disputes arising under subsections (b) – (f) of this section."

In my opinion the State Board of Education does not have authority to determine that a school district "is in compliance with the Arkansas School Choice Act" where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision. *Cf. State Police v. McCall*, 98 A.D.2d 921, 470 N.Y.S.2d 916 (1983) ("State Human Rights Appeal Board" (a state administrative agency), did not exceed its jurisdiction in construing federal district court order, but only because its decision was supported by other documentary proof and board did not base its decision solely on an interpretation of federal court order).

Disputes involving construction of federal court orders are properly left to the parties thereto, and their respective counsels, or if necessary, to the issuing court itself.

Deputy Attorney General Elana C. Wills prepared the foregoing opinion, which I hereby approve.

Sincerely,

MIKE BEEBE
Attorney General

MB:ECW/cyh

EXHIBIT 4

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 18, 2014, 6:00 P.M.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday, March 18, 2014, 6:00 P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Johnny Brown, Stacey Modisette, Tonya Clark, and Frank Herrera.

President Lindsay Nutt called the meeting to order.

Ms. Stacey Modisette made a motion to approve the February 18, 2014 Regular Board minutes. Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Johnny Brown made a motion to approve the monthly financial obligations. Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0.

Ms. Stacey Modisette made a motion to accept the 2014-2015 Licensed Personnel Salary Schedule as presented. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

Mr. Brad Lloyd made a motion to approve the deletion of fixed assets as presented. Mr. Johnny Brown seconded the motion. Motion passed. Vote 6-0.

A record of production payments received from Weiser Brown Operation Company was presented for board review for informational purposes only.

Ms. Stacey Modisette made a motion to accept the 2014-2015 Calendar for LCSD. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Keith presented information from Strategos International regarding professional development and safety training for the 2014-2015 school year. Mr. Brad Lloyd made a motion to have this company provide the necessary professional development and training for the 2014-2015 school year. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Keith presented a resolution for Lafayette County School District to opt out of participation in the Public School Choice Act of 2013. Mr. Brad Lloyd made a motion to approve the Resolution stating that Lafayette County School District shall not participate in public school choice as defined by Ark. Code Ann. $$ 6-18-1901, et seq. Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0.

Mr. Keith gave an update of the facilities stating that a dishwasher is needing to be replaced in the High School Cafeteria. Bids are currently being accepted. Mr. Johnny Brown made a motion to let Mr. Keith handle this situation as necessary. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 5

The Board entered Executive Session. The Board re-entered Open Session.

Ms. Stacey Modisette made a motion to approve additional duties for Bobby Clark-Girls track coach. Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0

Mr. Johnny Brown made a motion to hire Administrative staff:

- Opal Anderson, High School Principal
- Betsy Griffin, Elementary Principal
- David Downs, Asst Principal/Dean
- Cheryl McMahen, Asst Elem. Principal
- Janet Walker, Federal Programs Coordinator

Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0

Ms. Tonya Clark made a motion to accept the resignation of Robert Haworth, Social Studies teacher. Mr. Johnny Brown seconded the motion. Motion passed. Vote 6-0

Mr. Brad Lloyd made a motion to accept the resignation of Joyce Smith and Michael Hamilton, High School Custodians. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0

There being no further business. Mr. Brad Lloyd made the motion to adjourn. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0

Lindsay Nutt
President

Stacey Modisette
Secretary

EXHIBIT 5

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 6

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 6

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 6

ASSOCIATED DOCUMENTS

APPLICATION FOR TRANSFER TO A NON-RESIDENT DISTRICT
"ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"

Rejected ✓ mailed 5-6-15

(Must be submitted to Non-Resident Districts)

APPLICANT INFORMATION	
Applicant Name M[redacted] Morton	Date and Time Received by Non-Resident District: 8:00 4-20-15
Date of Birth [redacted]	Gender Male ☐ Female ☑
	GRADE 7th
Does the applicant require special needs or programs? Yes ☐ No ☑	
Is applicant currently under expulsion? Yes ☐ No ☑	

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races	☐				
African American	☐	Asian	☐	Hispanic	☐
Native American/ Native Alaskan	☐	Native Hawaiian/ Pacific Islander	☐	White	☑

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name Lafayette County School	County Name Lafayette
Address 712 Chestnut Street Lewisville, AR.	
Phone 870-533-2252	

NON-RESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name Taylor School District	County Name Columbia
Address 506 East Pine Street Taylor, AR. 71861	
Phone 870-694-2251	
Does the applicant already have a sibling or step-sibling in attendance in this district? No	

PARENT OR GUARDIAN INFORMATION OF APPLICANT

Name Richard + Melinda Morton	Home Phone [redacted]
Address [redacted] Lewisville, AR 71845	Work Phone [redacted] (Richard) (Melinda)
Parent/Guardian Signature Melinda Morton	Date 4/12/15

Pursuant to standards adopted by a non-resident school board a non-resident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. A school district receiving transfers under the School Choice Act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion or disability. However, a non-resident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Act 560 of 2015 (Public School Choice Act). Priority will be given to applicants with siblings or step-siblings attending the district. The non-resident district shall accept credits toward graduation that were awarded by another district and award a diploma to a non-resident applicant if the applicant meets the non-resident district's graduation requirements. This application must be filed in the non-resident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the non-resident district. Any district receiving this application must retain it in its district records for at least one (1) year from the date it is received, for data verification and general recordkeeping purposes.

DISTRICT USE ONLY

Application Accepted ☐	Rejected ☑
Date Notification Sent to Parent/Guardian of Applicant	5-6-15
Date Notification Sent to Resident District	5-21-15

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.*e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

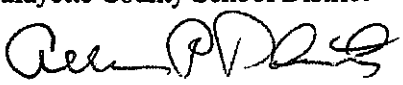
In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District



Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

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ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP,

on _____ by _____

SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection and applies for a school choice transfer under § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(3) A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under subdivision (c)(2) of this section may complete all remaining school years at the nonresident district.

SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to read as follows:

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district ~~with a copy to~~ ,which shall notify the resident district of the filing of the application;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) A nonresident district that receives an application under subsection (a) of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

(c) A nonresident district shall review and make a determination on each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

1 ~~subsection is irrevocable for one (1) year from the date the school district~~
2 ~~notifies the Department of Education of the declaration of exemption.~~
3 ~~(B) After each year of exemption, the board of directors~~
4 ~~may elect to participate in public school choice under this section if the~~
5 ~~school district's participation does not conflict with the school district's~~
6 ~~federal court-ordered desegregation program.~~
7 ~~(3) A school district shall notify the department by April 1 if~~
8 ~~in the next school year the school district intends to:~~
9 ~~(A) Declare an exemption under this section; or~~
10 ~~(B) Resume participation after a period of exemption.~~
11 ~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit
12 on school choice transfers each school year from a school district, less any
13 school choice transfers into the school district, under this section of not
14 *more than three percent (3%) of the* ~~*school district's three-quarter average*~~
15 ~~*daily membership for the*~~ *enrollment that exists in the school district as of*
16 *October 15 of the immediately preceding school year.*
17 (B) For the purpose of determining the percentage of school
18 choice transfers under this subsection, siblings who are counted in the
19 numerator as transfer students shall count as one (1) student~~, and siblings~~
20 ~~who are counted in the denominator as part of the average daily membership~~
21 ~~shall count as one (1) student~~.
22 (C) A student eligible to transfer to a nonresident
23 district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count
24 against the cap of three percent (3%) of the resident or nonresident
25 district.
26 (2) Annually by ~~June 1~~ *December 15*, the department shall report
27 to each school district the net maximum number of school choice transfers for
28 the ~~current~~ next school year.
29 (3) If a student is unable to transfer due to the limits under
30 this subsection, the resident district shall give the student priority for a
31 transfer in the ~~following~~ first school year in which the district is no
32 longer subject to subdivision § (b)(1) of this section in the order that the
33 resident district receives notices of applications under § 6-18-1905, as
34 evidenced by a notation made by the district on the applications indicating
35 date and time of receipt.
36

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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A.C.A. § 6-18-1901

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A.C.A. § 6-18-1901

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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Title 6 Education
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Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903

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Title 6 Education
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A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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Title 6 Education
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Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1906

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A.C.A. § 6-18-1907

Arkansas Code of 1987 Annotated
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*** Legislation is current through the 2014 Second Extraordinary Session ***
*** and updates received from the Arkansas Code Revision Commission ***
*** through December 12, 2014. ***

Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908
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A.C.A. § 6-18-1908 (Copy w/ Cite) Pages: **2**

A.C.A. § 6-18-1908

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908 (Copy w/ Cite) Pages: 2

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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY				
Date and Time Received by Resident District:			Date and Time Received by Nonresident District:	
Resident District LEA #:			Nonresident District LEA#:	
Student's State Identification #:				
Application	Accepted		Rejected	
Reason for Rejection (If Applicable):				
Date Notification Sent to Parent/Guardian of Applicant:				
Date Notification Sent to Resident District :				

HEARING PROCEDURES

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

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The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

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~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

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~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

COPY

June 3, 2015

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

Brad and Angela Lloyd
[redacted]
Lewisville, AR 71845

Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Gary Hines, Superintendent
Emerson-Taylor-Bradley Sch. Dist.
506 E. Pine Street
Taylor, AR 71861

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is tentatively scheduled to hear the above-referenced appeal(s) on **Thursday, July 9, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on June 19, 2015**.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

/signed/

Jeremy C. Lasiter
General Counsel

cc: Mr. Johnny Key, Commissioner of Education
Ms. Annette Barnes, Asst. Commissioner, Public School Accountability
State Board of Education Office

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

05/14/2015

To Whom it may Concern,

We are requesting a hearing to the State Board of Education to be reconsidered for transfer. We are appealing the decision of the rejection of transfer for W[redacted] Lloyd and A[redacted] Lloyd. We were rejected because Lafayette County School District (LCSD) has opted out of the AR Public School Choice Act.

We feel that LCSD has several safety issues that concern us as parents. There also has been several events that have led to some of our long-term teachers to become upset and search for jobs in other school districts. We want our children to receive the best education possible and if our teachers are unhappy and if they feel unappreciated they will not be as efficient in teaching our children. We feel at this point LCSD can not give our children the best education. We have done some research and found that Taylor School District ranks 19th out of the 448 schools Elementary Schools and 5th out of the 268 High Schools. As concerned parents we feel that Taylor School District would do a better job of educating our children as well as keep our children safe.

According to www.arkansased.org LCSD opted out of the Public School Choice Act because of a lawsuit filed in 1993 against Lewisville School District. Lewisville School District no longer exists.

We are very active in the schools and spend a lot of time there. Brad just recently resigned as a school board member at LCSD and has seen and dealt with these issues we have mentioned.

We ask that you consider appealing this decision of rejection.

RECEIVED
ATTORNEY'S OFFICE
MAY 19 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

Thank You,

Brad Lloyd

Angela Lloyd

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Gary Hines, Superintendent
506 E. Pine St.
Taylor, AR 71861

May 6, 2015

Brad & Angela Lloyd
[redacted]
Lewisville, AR 71845

Dear Brad & Angela:

I regret to inform you that your applications for Walter Jake Lloyd and Abby Nicole Lloyd to attend Taylor Schools for the 2015-2016 school year under the "Arkansas Public School Choice Act of 2015" have been rejected. The reason for the rejection is as follows:

You are a resident of the Lafayette County School District. According to the Arkansas Department of Education, LCSD has opted out of the Arkansas Public School Choice Act. You can find this information on the ADE's website at www.arkansased.org. Click on the "school choice" link under the Educational Options heading.

You have the right to appeal this decision to the Arkansas State Board of Education. For more information contact the Office of the Commissioner at 501-682-4203.

Sincerely,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

[redacted]
Lewisville, AR
71845

SHREVEPORT LA 710
15 MAY 2015 PM 2 L

Office of the Commissioner
ATTN: AR Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR
72201

722013$1013

May 22, 2015

Office of the Commissioner
ATTN: Jeremy C. Lasiter
Four Capital Mall
Little Rock, AR 72201

RECEIVED
ATTORNEY'S OFFICE
MAY 29 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

RECEIVED
COMMISSIONER'S OFFICE
MAY 29 2015
DEPARTMENT OF EDUCATION

Dear Mr. Lasiter,

As per our phone conversation on May 21, 2015, the parents who were denied admission into the Taylor School District would like to request one appeal hearing. We were denied by Taylor based solely on the claim of a desegregation order by the Lafayette County School District. The parents who request one hearing are as follows:

Chad and Marcy Teague

Brad and Angela Lloyd

Richard and Mindy Morton

John and Tiffanie Greene

Jamie Gardner

Don and Michelle Wheelington

Thank you in advance for your cooperation in this request.

Sincerely,

Marcy Teague

Marcy Teague

[redacted]

MARCUS TEAGUE
[redacted]
STAMPS, AR 71860

SHREVEPORT LA 710
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Office of the Commissioner
School Choice Appeals
ATTN: JEREMY C. LASITER
Four Capital Mall
LITTLE ROCK, AR 72201

72201101304

RESPONSE

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Gary Hines, Superintendent
506 E. Pine St.
Taylor, AR 71861

RECEIVED
COMMISSIONER'S OFFICE

MAY 26 2015

DEPARTMENT OF EDUCATION

May 19, 2015

RECEIVED
ATTORNEY'S OFFICE

MAY 26 2015

DEPARTMENT OF EDUCATION
GENERAL DIVISION

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

Re: Appeals

To Whom It May Concern:

The Emerson-Taylor-Bradley School District has no additional information, evidence or arguments supporting its rejection of the students' applications. The rejection was based solely on the claim of a desegregation order by the Lafayette County School District and its listing on the ADE's website of such. If the State Board of Education determines that the LCSD is not under an enforceable desegregation order, the Emerson-Taylor-Bradley School District will reconsider the school choice applications from those submitted whose resident district is the Lafayette County School District.

Respectfully,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Cc: Richard & Melinda Morton
Cc: Chad & Marcy Teague
Cc: Brad & Angela Lloyd
Cc: Joseph & Sharon Black
Cc: John & Tiffanie Green

EMERSON-TAYLOR-BRADLEY
SCHOOL DISTRICT
Office of Superintendent
506 E. Pine St.
Taylor, AR 71861

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Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

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FUQUA CAMPBELL, P.A.
ATTORNEYS AT LAW

DAVID M. FUQUA
PHIL CAMPBELL
J. BLAKE HENDRIX
ABBIE DECKER RUCKER
PATRICK L. SPIVEY
ERIC R. GRIBBLE*
DEIDRA PARISH**+
WHITNEY F. MOORE
HALEY HEATH BURKS
CHRISTOPHER M. STEVENS
KAYLEN S. LEWIS
SAMUEL C. BABER

* *Also Admitted in Missouri*
** *Also Admitted in Texas*

RIVIERA TOWER
3700 CANTRELL ROAD, SUITE 205
LITTLE ROCK, ARKANSAS 72202
Telephone: 501.374.0200
Facsimile: 501.975.7153
Web: www.fc-lawyers.com

ALLEN P. ROBERTS, of Counsel
MIKE MUNNERLYN, of Counsel
JAMES WILLIAM McLEOD, of Counsel +

+ 225 S. MAIN, SUITE 102
JONESBORO, ARKANSAS 72401
870.932.2177

Direct Dial: (501) 975-7122
Email: wmoore@fc-lawyers.com

June 19, 2015

VIA HAND-DELIVERY
Mr. Jeremy Lasiter
Attn: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, Arkansas 72201

Re: Lafayette County School District (Resident District)
Emerson-Taylor-Bradley School District (Non-Resident District)
Public School Choice Act of 2015 Appeals submitted by the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington families

Dear Mr. Lasiter:

Allen Roberts and I represent Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003.

LCSD is the resident district involved in the aforementioned Public School Choice Act of 2015 appeals filed by the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington families, all of whom applied for transfer to Emerson-Taylor-Bradley School District (ETBSD). ETBSD correctly denied all of the transfer requests based on LCSD's declaration of a conflict pursuant to Ark. Code Ann. 6-18-1906(a). In compliance with Ark. Code Ann. 6-13-113(b) and 6-18-1906(a)(2), LCSD has submitted to the Department of Education a copy of the consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div., which is a desegregation court order that conflicts with LCSD's participation in school choice.

Pursuant to your notice of hearing letter dated June 3, 2015, I would like to submit the following materials for consideration at the State Board of Education's July 9, 2015 meeting:

1. The resolution adopted by LCSD's board regarding LCSD's decision not to participate in school choice (**Exhibit 1**).
2. The April 21, 2015 letter from Allen Roberts regarding LCSD's decision not to participate in school choice (**Exhibit 2**).
3. The March 4, 1993 consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div (**Exhibit 3**).
4. Former Attorney General Mike Beebe's September 24, 2003 opinion regarding the State Board of Education's authority to construe court orders (**Exhibit 4**).
5. The March 18, 2014 minutes of the LCSD School Board, noting Brad Lloyd's motion in favor of LCSD not participating in school choice, which passed by a vote of 6-0 (**Exhibit 5**).
6. The March 17, 2015 minutes of the LCSD School Board, noting Brad Lloyd's second of a motion in favor of LCSD not participating in school choice, which passed by a vote of 6-0 (**Exhibit 6**).

The appeals question the validity of the order in *Turner*. There is no indication from the 2015 Act (nor from its predecessor, the Public School Choice act of 2013) that the legislature intended for the State Board of Education to review the propriety of a conflict claimed by a district pursuant to Ark. Code Ann. 6-18-1906(a). There is no provision in the Act that authorizes the Department or the State Board to approve or deny a district's submission. The Act only provides opportunity for a district to claim a conflict and provide the Department of Education with a copy of the conflicting order, which LCSD has done.

An Attorney General's opinion issued in 2003 regarding the School Choice Act of 1989 directly addresses the question of whether the State Board should review and interpret federal court orders. On September 24, 2003, the Attorney General's office wrote to then ADE director, Ray Simon, in Opinion No. 2003-269. Mr. Simon had asked whether or not the State Board of Education had the legal authority to decide whether a district could accept students outside the parameters of the 1989 Act "as long as the district is in compliance with the requirements of the assumed U.S. District Court Order?" (Exhibit 4, p. 2). Attorney General Beebe makes clear in the opinion that the State Board of Education should not seek to interpret federal court orders, stating:

> In my opinion the state Board of Education does not have authority to determine that a school district 'is in compliance with the Arkansas School Choice Act' where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision.

The opinion concludes with the note that disputes involving construction of federal court orders are properly left to the parties themselves, their respective counsels, or if necessary, to the issuing court itself. (Exhibit 4, p. 5).

The *Turner* case was filed by a black staff member and black parents of children attending Lewisville School District. (Exhibit 3, p. 1). Paragraph 4 of the decree specifically references "racial discrimination in . . . student assignment." (Exhibit 3, p. 2). Paragraphs 2 and 3 also address discrimination against students on the basis of race. (Exhibit 3, p. 2). Paragraph 12 requires the desegregation of all classes, programs, and activities offered by the district. (Exhibit 3, p. 5). The consent decree concludes by stating, in paragraph 18, that "the Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." (Exhibit 3, p. 6). As noted by Mr. Roberts in Exhibit 2, the desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (i.e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding. To the best of LCSD's knowledge, this is the last order entered in the case. There are no orders dismissing the case or declaring that LCSD is unitary.

The structure of the Act also strongly suggests that the assertion of a conflict is not appealable because there is no provision in either the Act or the emergency rules that the resident district do anything when the non-resident district denies the application. This logically should mean that appeals are limited to issues such as enrollment caps and capacity issues. The applications were denied solely due to LCSD's conflict, not due to capacity or enrollment caps.

The Act also lacks any provision for the resident district to be heard as a party on appeal. If an appeal of the asserted conflict was contemplated, then party status would have been accorded the resident district. Because it was not, consideration of an appeal on those grounds without providing for party status for the resident district would result in a denial of procedural and substantive due process to the resident district.

The appeals state various reasons why these families would like to leave LCSD and enroll their children in ETBSD. However, none of those reasons override the federal court order presented by LCSD, as permitted by the Act.

For the foregoing reasons, the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington appeals should be denied. We appreciate your consideration of this response and request an opportunity to be heard at the hearing.

Respectfully submitted,

Whitney F. Moore and Allen P. Roberts
Attorneys for Lafayette County School District

cc: Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Allen P. Roberts
Allen P. Roberts, P.A.
P.O. Box 280
Camden, AR 71711

Gary Hines, Superintendent
Emerson-Taylor-Bradley School District
506 E. Pine Street
Taylor, AR 71861

Joseph and Sharon Black
1204 Hilltop Drive
Stamps, AR 71860

Jamie Gardner
176 Lafayette 27
Stamps, AR 71860

Tiffanie Green
476 Lafayette 43
Buckner, AR 71827

Brad and Angela Lloyd
698 Lafayette 28
Lewisville, AR 71845

Richard and Melinda Morton
P.O. Box 232
Lewisville, AR 71845

Chad and Marcy Teague
1283 Lafayette 31
Stamps, AR 71860

Michelle Wheelington
1520 Nevada 3
Stamps, AR 71860

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 1

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

EXHIBIT 2

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District

Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

EXHIBIT 3

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

EXHIBIT 3

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

EXHIBIT 3

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

EXHIBIT 3

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

EXHIBIT 3

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

EXHIBIT 3

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

U. S. DISTRICT JUDGE

MAR 05 1993

CHRIS R. JOHNSON, CLERK DATE: March 4, 1993

Deputy Clerk

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72014
LASER, SHARP, MAYES, WILSON, BUFFORD & WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP.

on _____ by _____

EXHIBIT 3

Opinion No. 2003-269

September 24, 2003

Mr. Raymond Simon, Director
Arkansas Department of Education
#4 Capitol Mall
Little Rock, Arkansas 72201-1071

Dear Mr. Simon:

I am writing in response to your request for an opinion on several questions relating to the "Arkansas Public School Choice Act of 1989," as amended. Specifically, you pose the following questions, which I have numbered below:

1. Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

2. In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

3. Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance

EXHIBIT 4

> with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

RESPONSE

I cannot provide an answer to your first and second questions, because the answer will depend upon the provisions of the applicable U.S. District Court order. In my opinion the answer to your third question is "no," the State Board of Education does not have this authority.

Question 1-- Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

Question 2-- In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

The "Arkansas Public School Choice Act of 1989" is codified at A.C.A. § 6-18-206. It has been amended several times since its original adoption, most recently by Act 1272 of 2003. This most recent act requires all school districts to participate in public school choice, rather than making such participation optional with each school board, as under prior law. The applicable statute sets out a procedure for a student or his or her parent or guardian to make application for a transfer of school districts. The statute also sets out, among other things, requirements pertaining to student transportation and the treatment of "state equalization aid" with regard to transferring students. Subsection (f) of the statute, which you reference in your request, provides as follows:

> (f) The provisions of this section and all student choice options created in this section are subject to the following limitations:
>
> (1) No student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that

EXHIBIT 4

percentage in the student's resident district except in the circumstances set forth in subdivisions (2) and (4) of this subsection;

(2) A transfer to a district is exempt from the restriction set forth in subdivision (f)(1) of this section if the transfer is between two (2) districts within a county, and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and non-resident district remain within an acceptable range of the county's overall minority percentage in the student's race and majority percentages of school population as set forth by the department;

(3) The department shall, by the filing deadline each year, compute the minority percentage in the student's race and majority percentages of each county's public school population from the October Annual School Report and shall then compute the acceptable range of variance from those percentages for school districts within each county. In establishing the acceptable range of variance, the department is directed to use the remedial guideline established in Little Rock School District v. Pulaski County Special School District of allowing an overrepresentation or underrepresentation of black or white students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance. In establishing the acceptable range of variance for school choice, the department is directed to use the remedial guideline of allowing an overrepresentation or underrepresentation of minority or majority students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance;

(4) A transfer is exempt from the restriction set forth in subdivision (f)(1) of this section if each school district within the county does not have a critical mass of minority percentage in the student's race students of more than ten percent (10%) of any single race;

(5) *In any instance where the foregoing provisions would result in a conflict with a desegregation court order or a district's court-*

EXHIBIT 4

> *approved desegregation plan, the terms of the order or plan shall govern;*
>
> (6) The department shall adopt appropriate rules and regulations to implement the provisions of this section; and
>
> (7) The department shall monitor school districts for compliance with this section.

A.C.A. § 6-18-206 (f), as amended by Act 1272 of 2003 (emphasis added).

The emphasized language of subsection (f)(5) above provides for the supremacy of a desegregation orders or court-approved desegregation plans in the case of a "conflict" between such orders and plans, on the one hand, and the "foregoing" provisions of A.C.A. § 6-18-206(f), which outline racial limitations and exceptions on transfers. Conceivably, therefore, a federal court order could, depending upon its provisions, have controlling effect over the provisions of A.C.A. § 6-18-206(f). The question in each instance will be whether the statutory provisions above actually conflict with any such a federal court order. Resolution of that type of question will depend upon the provisions of the order in question and any and all other pertinent facts and laws. I cannot determine this issue in the context of an official Attorney General opinion. As one of my predecessors stated in Op. Att'y Gen. 95-066:

> The construction of such [federal court] orders and agreements is best left to the parties themselves, or ultimately to the federal court. This office has not been provided with a copy of any federal court order or settlement agreement, and cannot, in the context of an official opinion of the Attorney General, especially where the state is not a party, presume to dictate actions to be taken under the rubric of such documents.

Id. at 2. *See also* Op. Att'y Gen. 94-139 (declining to interpret a federal court order and stating that "reference to th[e] particular court order, and possibly clarification from the federal court, would be necessary to resolve the issue conclusively).

I am therefore unable to render an opinion on your first and second questions above.

EXHIBIT 4

Question 3-- Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

Subsection (g) of A.C.A. § 6-18-206 provides that: "[t]he state board shall be authorized to resolve disputes arising under subsections (b) – (f) of this section."

In my opinion the State Board of Education does not have authority to determine that a school district "is in compliance with the Arkansas School Choice Act" where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision. *Cf. State Police v. McCall*, 98 A.D.2d 921, 470 N.Y.S.2d 916 (1983) ("State Human Rights Appeal Board" (a state administrative agency), did not exceed its jurisdiction in construing federal district court order, but only because its decision was supported by other documentary proof and board did not base its decision solely on an interpretation of federal court order).

Disputes involving construction of federal court orders are properly left to the parties thereto, and their respective counsels, or if necessary, to the issuing court itself.

Deputy Attorney General Elana C. Wills prepared the foregoing opinion, which I hereby approve.

Sincerely,

MIKE BEEBE
Attorney General

MB:ECW/cyh

EXHIBIT 4

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 18, 2014, 6:00 P.M.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday, March 18, 2014, 6:00 P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Johnny Brown, Stacey Modisette, Tonya Clark, and Frank Herrera.

President Lindsay Nutt called the meeting to order.

Ms. Stacey Modisette made a motion to approve the February 18, 2014 Regular Board minutes. Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Johnny Brown made a motion to approve the monthly financial obligations. Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0.

Ms. Stacey Modisette made a motion to accept the 2014-2015 Licensed Personnel Salary Schedule as presented. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

Mr. Brad Lloyd made a motion to approve the deletion of fixed assets as presented. Mr. Johnny Brown seconded the motion. Motion passed. Vote 6-0.

A record of production payments received from Weiser Brown Operation Company was presented for board review for informational purposes only.

Ms. Stacey Modisette made a motion to accept the 2014-2015 Calendar for LCSD. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Keith presented information from Strategos International regarding professional development and safety training for the 2014-2015 school year. Mr. Brad Lloyd made a motion to have this company provide the necessary professional development and training for the 2014-2015 school year. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Keith presented a resolution for Lafayette County School District to opt out of participation in the Public School Choice Act of 2013. Mr. Brad Lloyd made a motion to approve the Resolution stating that Lafayette County School District shall not participate in public school choice as defined by Ark. Code Ann. $$ 6-18-1901, et seq. Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0.

Mr. Keith gave an update of the facilities stating that a dishwasher is needing to be replaced in the High School Cafeteria. Bids are currently being accepted. Mr. Johnny Brown made a motion to let Mr. Keith handle this situation as necessary. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 5

The Board entered Executive Session. The Board re-entered Open Session.

Ms. Stacey Modisette made a motion to approve additional duties for Bobby Clark-Girls track coach. Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0

Mr. Johnny Brown made a motion to hire Administrative staff:

- Opal Anderson, High School Principal
- Betsy Griffin, Elementary Principal
- David Downs, Asst Principal/Dean
- Cheryl McMahen, Asst Elem. Principal
- Janet Walker, Federal Programs Coordinator

Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0

Ms. Tonya Clark made a motion to accept the resignation of Robert Haworth, Social Studies teacher. Mr. Johnny Brown seconded the motion. Motion passed. Vote 6-0

Mr. Brad Lloyd made a motion to accept the resignation of Joyce Smith and Michael Hamilton, High School Custodians. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0

There being no further business. Mr. Brad Lloyd made the motion to adjourn. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0

Lindsay Nutt
President

Stacey Modisette
Secretary

EXHIBIT 5

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 6

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 6

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 6

ASSOCIATED DOCUMENTS

Rejected mailed 5-6-15

APPLICATION FOR TRANSFER TO A NON-RESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"

(Must be submitted to Non-Resident Districts)

APPLICANT INFORMATION

Applicant Name [redacted] Lloyd

Date and Time Received by Non-Resident District: 8:00 4-22-15

Date of Birth [redacted]

Gender Male ☐ Female ☑

GRADE 5th

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐

African American ☐ Asian ☐ Hispanic ☐

Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐ White ☑

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name Lafayette County Elem County Name Lafayette

Address PO Box 950 | 712 Chestnut Lewisville, AR 71845

Phone

NON-RESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name Taylor Elem School County Name Columbia

Address 506 E. Pine St Taylor, AR 71861

Phone 870-694-2251

Does the applicant already have a sibling or step-sibling in attendance in this district? No

PARENT OR GUARDIAN INFORMATION OF APPLICANT

Name Brad & Angela Lloyd Home Phone [redacted]

Address [redacted] Work Phone [redacted]

Lewisville, AR 71845

Parent/Guardian Signature [signature] Date 4-21-15

Pursuant to standards adopted by a non-resident school board a non-resident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. A school district receiving transfers under the School Choice Act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion or disability. However, a non-resident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Act 560 of 2015 (Public School Choice Act). Priority will be given to applicants with siblings or step-siblings attending the district. The non-resident district shall accept credits toward graduation that were awarded by another district and award a diploma to a non-resident applicant if the applicant meets the non-resident district's graduation requirements. This application must be filed in the non-resident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the non-resident district. Any district receiving this application must retain it in its district records for at least one (1) year from the date it is received, for data verification and general recordkeeping purposes.

DISTRICT USE ONLY

Application Accepted ☐ Rejected ☑

Date Notification Sent to Parent/Guardian of Applicant 5-6-15

Date Notification Sent to Resident District 5-21-15

APPLICATION FOR TRANSFER TO A NON-RESIDENT DISTRICT
"ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"

(Must be submitted to Non-Resident Districts)

APPLICANT INFORMATION			
Applicant Name [redacted] Lloyd		Date and Time Received by Non-Resident District: 4-22-15	
Date of Birth [redacted]		Gender Male ☐	Female ☑
		GRADE 7th	
Does the applicant require special needs or programs? Yes ☐	No ☑		
Is applicant currently under expulsion? Yes ☐	No ☑		

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races	☐				
African American	☐	Asian	☐	Hispanic	☐
Native American/ Native Alaskan	☐	Native Hawaiian/ Pacific Islander	☐	White	☑

RESIDENT SCHOOL DISTRICT OF APPLICANT	
District Name Lafayette County Schools	County Name Lafayette County
Address PO Box 950 / 712 Chestnut	Lewisville AR 71845
Phone	

NON-RESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND	
District Name Taylor High School	County Name Columbia
Address 506 E. Pine St.	Taylor, AR 71861
Phone 870-694-2251	
Does the applicant already have a sibling or step-sibling in attendance in this district? No	

PARENT OR GUARDIAN INFORMATION OF APPLICANT	
Name Brad or Amarla Lloyd	Home Phone [redacted]
Address [redacted]	Work Phone [redacted]
Lewisville, AR 71845	
Parent/Guardian Signature [signature]	Date 4-21-15

Pursuant to standards adopted by a non-resident school board a non-resident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. A school district receiving transfers under the School Choice Act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion or disability. However, a non-resident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Act 560 of 2015 (Public School Choice Act). Priority will be given to applicants with siblings or step-siblings attending the district. The non-resident district shall accept credits toward graduation that were awarded by another district and award a diploma to a non-resident applicant if the applicant meets the non-resident district's graduation requirements. This application must be filed in the non-resident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the non-resident district. Any district receiving this application must retain it in its district records for at least one (1) year from the date it is received, for data verification and general recordkeeping purposes.

DISTRICT USE ONLY			
Application	Accepted ☐	Rejected ☑	
Date Notification Sent to Parent/Guardian of Applicant	5-6-15		
Date Notification Sent to Resident District			

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.*e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

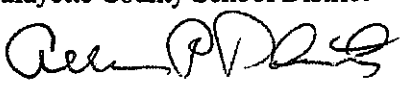
In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District



Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

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This order entered on docket in compliance with Rules 79 (a), FRCP,

on _____ by _____

SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection and applies for a school choice transfer under § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(3) A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under subdivision (c)(2) of this section may complete all remaining school years at the nonresident district.

SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to read as follows:

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district ~~with a copy to~~ ,which shall notify the resident district of the filing of the application;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) A nonresident district that receives an application under subsection (a) of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

(c) A nonresident district shall review and make a determination on each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

1 ~~subsection is irrevocable for one (1) year from the date the school district~~
2 ~~notifies the Department of Education of the declaration of exemption.~~
3 ~~(B) After each year of exemption, the board of directors~~
4 ~~may elect to participate in public school choice under this section if the~~
5 ~~school district's participation does not conflict with the school district's~~
6 ~~federal court-ordered desegregation program.~~
7 ~~(3) A school district shall notify the department by April 1 if~~
8 ~~in the next school year the school district intends to:~~
9 ~~(A) Declare an exemption under this section; or~~
10 ~~(B) Resume participation after a period of exemption.~~
11 ~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit
12 on school choice transfers each school year from a school district, less any
13 school choice transfers into the school district, under this section of not
14 *more than three percent (3%) of the* ~~*school district's three-quarter average*~~
15 ~~*daily membership for the*~~ *enrollment that exists in the school district as of*
16 *October 15 of the immediately preceding school year.*
17 (B) For the purpose of determining the percentage of school
18 choice transfers under this subsection, siblings who are counted in the
19 numerator as transfer students shall count as one (1) student~~, and siblings~~
20 ~~who are counted in the denominator as part of the average daily membership~~
21 ~~shall count as one (1) student~~.
22 (C) A student eligible to transfer to a nonresident
23 district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count
24 against the cap of three percent (3%) of the resident or nonresident
25 district.
26 (2) Annually by ~~June 1~~ *December 15*, the department shall report
27 to each school district the net maximum number of school choice transfers for
28 the ~~current~~ next school year.
29 (3) If a student is unable to transfer due to the limits under
30 this subsection, the resident district shall give the student priority for a
31 transfer in the ~~following~~ first school year in which the district is no
32 longer subject to subdivision § (b)(1) of this section in the order that the
33 resident district receives notices of applications under § 6-18-1905, as
34 evidenced by a notation made by the district on the applications indicating
35 date and time of receipt.
36

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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Subtitle 2. Elementary And Secondary Education Generally
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A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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Title 6 Education
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A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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Title 6 Education
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A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908

Arkansas Code of 1987 Annotated
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*** Legislation is current through the 2014 Second Extraordinary Session ***
*** and updates received from the Arkansas Code Revision Commission ***
*** through December 12, 2014. ***

Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908
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A.C.A. § 6-18-1908 (Copy w/ Cite) Pages: 2

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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY				
Date and Time Received by Resident District:			Date and Time Received by Nonresident District:	
Resident District LEA #:			Nonresident District LEA#:	
Student's State Identification #:				
Application	Accepted		Rejected	
Reason for Rejection (If Applicable):				
Date Notification Sent to Parent/Guardian of Applicant:				
Date Notification Sent to Resident District :				

HEARING PROCEDURES

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

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8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

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~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

June 3, 2015

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

Tiffanie Green
[redacted]
Buckner, AR 71827

Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Gary Hines, Superintendent
Emerson-Taylor-Bradley Sch. Dist.
506 E. Pine Street
Taylor, AR 71861

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is tentatively scheduled to hear the above-referenced appeal(s) on **Thursday, July 9, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on June 19, 2015**.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

/signed/

Jeremy C. Lasiter
General Counsel

cc: Mr. Johnny Key, Commissioner of Education
Ms. Annette Barnes, Asst. Commissioner, Public School Accountability
State Board of Education Office

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

RECEIVED
ATTORNEY'S OFFICE

MAY 22 2015

DEPARTMENT OF EDUCATION
GENERAL DIVISION

Arkansas State Board of Education
Office of the Commissioner
Johnny Key
Four Capitol Mall, Room 304-A
Little Rock, Arkansas 72201

May 18, 2015

RECEIVED
COMMISSIONER'S OFFICE

MAY 22 2015

DEPARTMENT OF EDUCATION

Dear Mr. Key:

Good Day to you and thank you for taking the time to read the concerns of my husband, John and myself. We have four children currently enrolled in Lafayette County School District, L[redacted] Elder, I[redacted] Green, L[redacted] Green and J[redacted] Green. We live in Buckner, Arkansas which is within Lafayette County School District's resident area. We are writing this letter in hopes of being granted an appeal of the decision of Taylor School District to decline our four children enrollment based on Lafayette County School Districts decision to opt out of Arkansas School Choice Law that was revised in March of this year. I have tried to do my homework on the education laws here in Arkansas as well as the documentation pertaining to Lafayette County School District and their decision to opt out of the School Choice Law. It is my understanding to be eligible to legally opt out of this law a district must have an active desegregation order from a federal court. I have not been able to find one for Lafayette County School District. Lewisville School District, which no longer exists since it consolidated with Stamps School District in 2003, does have an old discrimination lawsuit from 1992.(enclosed with this letter) I am confused as to how a case against Lewisville School District from 1992 can be applied to a new school district that wasn't even in existence until 11 years after this case was filed. Can a case adjudicated before a school district is formed be used in this instance? Also, if a case against Lewisville School District is used here then how can it be imposed upon Stamps residents who reside in what was Stamps School District? It is my opinion that the legality of Lafayette County School District's paperwork and basis to opt out is questionable at best.

In addition to the questionable legality of Lafayette County School District's case, I do not believe that my children are receiving even the minimum education Arkansas Public School children should receive. I have looked up the rankings of public schools in our state and I would like to share with you what I found. I looked this information up on schooldigger.com. I am enclosing a copy of both Taylor and Lafayette County School's rankings. According to this website, for the 2014 school year, Lafayette County Schools were ranked 324 out of 448 schools. Taylor School, the school we wish to transfer to is ranked number 19. Mr. Key, our

children only get one shot at their education and it is our job as parents to make sure they are getting the best education possible. This is simply not happening here at Lafayette County Schools.

Thirdly, there are several safety concerns at Lafayette County Schools that no parent should have to consider when sending their children to school. Parents should feel that they have dropped their children off in a safe and healthy environment and that no harm will come to them during the school day. I do not have that comfort when I drop my children off in the mornings.

In closing, I would just like to ask you to please grant us an appeal to this decision and look into the concerns we have as parents. Please help us help our kids get the education they deserve. Thank you for your time.

Sincerely,

Tiffanie Green

Tiffanie Green

Rank (of 448)	School	District	City	Low Grade	High Grade	# Students	Student/Teach Ratio
11	Forest Heights Elementary School	Harrison School District	Harrison	KG	04	405	15.9
12	Eastside Elementary School	Rogers School District	Rogers	PK	05	586	17.5
13	Genoa Central Elementary School	Genoa Central School District	Texarkana	PK	04	430	14.5
14	Buffalo Is. Central West Elementary	Buffalo Is. Central School District	Monette	PK	06	242	13.1
15	Elm Tree Elementary School	Bentonville School District	Bentonville	KG	04	632	17.7
16	Armorel Elementary School	Armorel School District	Armorel	PK	06	223	12.0
17	Spring Hill Elementary School	Spring Hill School District	Hope	KG	06	298	12.8
18	Central Park At Morning Star	Bentonville School District	Bentonville	KG	04	725	18.7
19	Taylor Elementary School	Emerson-Taylor School District	Taylor	KG	06	167	12.6
20	John P. Woods Elementary School	Fort Smith School District	Fort Smith	KG	06	478	16.9

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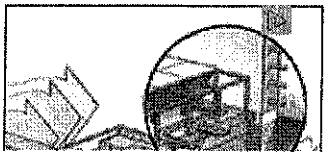

Arkansas Elementary School Rankings

School Year: 2013-2014

See advanced options

33

LI

Find school, district, city, zip... Find

Table Chart

Rank (of 448)	School	District	City	Low Grade	High Grade	# Students	Student/Teach Ratio
	School					Student and teach	
321	Fairview Elementary School	Texarkana School District	Texarkana	PK	04	305	16.9
322	Health/Wellness Envi Magnet	Jonesboro School District	Jonesboro	01	06	580	17.9
323	Clinton Elementary School	Pulaski County Special School District	Sherwood	PK	05	685	16.7
324	Lafayette County Elementary	Lafayette County School District	Lewisville	PK	12	395	13.1
325	Lawson Elementary School	Pulaski County Special School District	Little Rock	PK	05	264	17.6

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
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Camden, Arkansas 71711-0280
allen@aprobertslaw.com

Telephone: (870) 836-5310

Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (*i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District

Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

U. S. DISTRICT JUDGE

MAR 05 1993

CHRIS R. JOHNSON, CLERK DATE: March 4, 1993

APPROVED: BY Deputy Clerk

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

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LASER, SHARP, MAYES, WILSON, BUFFORD & WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This document entered on docket in compliance with Rule 79(a) and 58 (3), FRCP.

on _____ by _____

T. Green
[redacted]
Buckner, AR 71827

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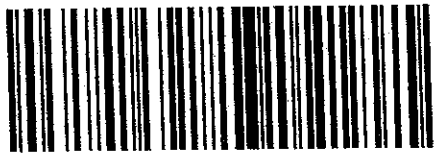

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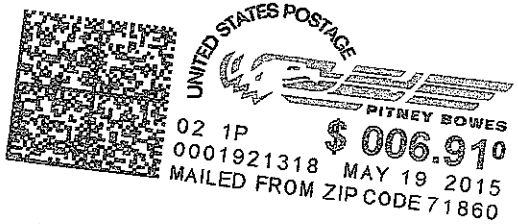

Arkansas State Board of Education
Office of the Commissioner
c/o Johnny Key
Four Capitol Mall, Room 304-A
Little Rock, AR 72201

72201$1019

May 22, 2015

Office of the Commissioner
ATTN: Jeremy C. Lasiter
Four Capital Mall
Little Rock, AR 72201

RECEIVED
ATTORNEY'S OFFICE
MAY 29 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

RECEIVED
COMMISSIONER'S OFFICE
MAY 29 2015
DEPARTMENT OF EDUCATION

Dear Mr. Lasiter,

As per our phone conversation on May 21, 2015, the parents who were denied admission into the Taylor School District would like to request one appeal hearing. We were denied by Taylor based solely on the claim of a desegregation order by the Lafayette County School District. The parents who request one hearing are as follows:

Chad and Marcy Teague

Brad and Angela Lloyd

Richard and Mindy Morton

John and Tiffanie Greene

Jamie Gardner

Don and Michelle Wheelington

Thank you in advance for your cooperation in this request.

Sincerely,

Marcy Teague

Marcy Teague

[redacted]

MARCY TEAGUE
[redacted]
Stamps, AR 71860

SHREVEPORT LA 710
26 MAY 2015 PM 1 L

Office of the Commissioner
School Choice Appeals
ATTN: JEREMY C. LASITER
Four Capital Mall
LITTLE ROCK, AR 72201

72201101304

RESPONSE

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Gary Hines, Superintendent
506 E. Pine St.
Taylor, AR 71861

RECEIVED
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MAY 26 2015

DEPARTMENT OF EDUCATION

May 19, 2015

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MAY 26 2015

DEPARTMENT OF EDUCATION
GENERAL DIVISION

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

Re: Appeals

To Whom It May Concern:

The Emerson-Taylor-Bradley School District has no additional information, evidence or arguments supporting its rejection of the students' applications. The rejection was based solely on the claim of a desegregation order by the Lafayette County School District and its listing on the ADE's website of such. If the State Board of Education determines that the LCSD is not under an enforceable desegregation order, the Emerson-Taylor-Bradley School District will reconsider the school choice applications from those submitted whose resident district is the Lafayette County School District.

Respectfully,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Cc: Richard & Melinda Morton
Cc: Chad & Marcy Teague
Cc: Brad & Angela Lloyd
Cc: Joseph & Sharon Black
Cc: John & Tiffanie Green

EMERSON-TAYLOR-BRADLEY
SCHOOL DISTRICT
Office of Superintendent
506 E. Pine St.
Taylor, AR 71861

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Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

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FUQUA CAMPBELL, P.A.
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ABBIE DECKER RUCKER
PATRICK L. SPIVEY
ERIC R. GRIBBLE*
DEIDRA PARISH**+
WHITNEY F. MOORE
HALEY HEATH BURKS
CHRISTOPHER M. STEVENS
KAYLEN S. LEWIS
SAMUEL C. BABER

* *Also Admitted in Missouri*
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MIKE MUNNERLYN, of Counsel
JAMES WILLIAM McLEOD, of Counsel +

+ 225 S. MAIN, SUITE 102
JONESBORO, ARKANSAS 72401
870.932.2177

Direct Dial: (501) 975-7122
Email: wmoore@fc-lawyers.com

June 19, 2015

VIA HAND-DELIVERY
Mr. Jeremy Lasiter
Attn: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, Arkansas 72201

Re: Lafayette County School District (Resident District)
Emerson-Taylor-Bradley School District (Non-Resident District)
Public School Choice Act of 2015 Appeals submitted by the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington families

Dear Mr. Lasiter:

Allen Roberts and I represent Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003.

LCSD is the resident district involved in the aforementioned Public School Choice Act of 2015 appeals filed by the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington families, all of whom applied for transfer to Emerson-Taylor-Bradley School District (ETBSD). ETBSD correctly denied all of the transfer requests based on LCSD's declaration of a conflict pursuant to Ark. Code Ann. 6-18-1906(a). In compliance with Ark. Code Ann. 6-13-113(b) and 6-18-1906(a)(2), LCSD has submitted to the Department of Education a copy of the consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div., which is a desegregation court order that conflicts with LCSD's participation in school choice.

Pursuant to your notice of hearing letter dated June 3, 2015, I would like to submit the following materials for consideration at the State Board of Education's July 9, 2015 meeting:

1. The resolution adopted by LCSD's board regarding LCSD's decision not to participate in school choice (**Exhibit 1**).
2. The April 21, 2015 letter from Allen Roberts regarding LCSD's decision not to participate in school choice (**Exhibit 2**).
3. The March 4, 1993 consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div (**Exhibit 3**).
4. Former Attorney General Mike Beebe's September 24, 2003 opinion regarding the State Board of Education's authority to construe court orders (**Exhibit 4**).
5. The March 18, 2014 minutes of the LCSD School Board, noting Brad Lloyd's motion in favor of LCSD not participating in school choice, which passed by a vote of 6-0 (**Exhibit 5**).
6. The March 17, 2015 minutes of the LCSD School Board, noting Brad Lloyd's second of a motion in favor of LCSD not participating in school choice, which passed by a vote of 6-0 (**Exhibit 6**).

The appeals question the validity of the order in *Turner*. There is no indication from the 2015 Act (nor from its predecessor, the Public School Choice act of 2013) that the legislature intended for the State Board of Education to review the propriety of a conflict claimed by a district pursuant to Ark. Code Ann. 6-18-1906(a). There is no provision in the Act that authorizes the Department or the State Board to approve or deny a district's submission. The Act only provides opportunity for a district to claim a conflict and provide the Department of Education with a copy of the conflicting order, which LCSD has done.

An Attorney General's opinion issued in 2003 regarding the School Choice Act of 1989 directly addresses the question of whether the State Board should review and interpret federal court orders. On September 24, 2003, the Attorney General's office wrote to then ADE director, Ray Simon, in Opinion No. 2003-269. Mr. Simon had asked whether or not the State Board of Education had the legal authority to decide whether a district could accept students outside the parameters of the 1989 Act "as long as the district is in compliance with the requirements of the assumed U.S. District Court Order?" (Exhibit 4, p. 2). Attorney General Beebe makes clear in the opinion that the State Board of Education should not seek to interpret federal court orders, stating:

> In my opinion the state Board of Education does not have authority to determine that a school district 'is in compliance with the Arkansas School Choice Act' where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision.

The opinion concludes with the note that disputes involving construction of federal court orders are properly left to the parties themselves, their respective counsels, or if necessary, to the issuing court itself. (Exhibit 4, p. 5).

The *Turner* case was filed by a black staff member and black parents of children attending Lewisville School District. (Exhibit 3, p. 1). Paragraph 4 of the decree specifically references "racial discrimination in . . . student assignment." (Exhibit 3, p. 2). Paragraphs 2 and 3 also address discrimination against students on the basis of race. (Exhibit 3, p. 2). Paragraph 12 requires the desegregation of all classes, programs, and activities offered by the district. (Exhibit 3, p. 5). The consent decree concludes by stating, in paragraph 18, that "the Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." (Exhibit 3, p. 6). As noted by Mr. Roberts in Exhibit 2, the desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (i.e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding. To the best of LCSD's knowledge, this is the last order entered in the case. There are no orders dismissing the case or declaring that LCSD is unitary.

The structure of the Act also strongly suggests that the assertion of a conflict is not appealable because there is no provision in either the Act or the emergency rules that the resident district do anything when the non-resident district denies the application. This logically should mean that appeals are limited to issues such as enrollment caps and capacity issues. The applications were denied solely due to LCSD's conflict, not due to capacity or enrollment caps.

The Act also lacks any provision for the resident district to be heard as a party on appeal. If an appeal of the asserted conflict was contemplated, then party status would have been accorded the resident district. Because it was not, consideration of an appeal on those grounds without providing for party status for the resident district would result in a denial of procedural and substantive due process to the resident district.

The appeals state various reasons why these families would like to leave LCSD and enroll their children in ETBSD. However, none of those reasons override the federal court order presented by LCSD, as permitted by the Act.

For the foregoing reasons, the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington appeals should be denied. We appreciate your consideration of this response and request an opportunity to be heard at the hearing.

Respectfully submitted,

Whitney F. Moore and Allen P. Roberts
Attorneys for Lafayette County School District

cc: Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Allen P. Roberts
Allen P. Roberts, P.A.
P.O. Box 280
Camden, AR 71711

Gary Hines, Superintendent
Emerson-Taylor-Bradley School District
506 E. Pine Street
Taylor, AR 71861

Joseph and Sharon Black
1204 Hilltop Drive
Stamps, AR 71860

Jamie Gardner
176 Lafayette 27
Stamps, AR 71860

Tiffanie Green
476 Lafayette 43
Buckner, AR 71827

Brad and Angela Lloyd
698 Lafayette 28
Lewisville, AR 71845

Richard and Melinda Morton
P.O. Box 232
Lewisville, AR 71845

Chad and Marcy Teague
1283 Lafayette 31
Stamps, AR 71860

Michelle Wheelington
1520 Nevada 3
Stamps, AR 71860

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 1

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

EXHIBIT 2

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District

Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

EXHIBIT 3

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

EXHIBIT 3

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

EXHIBIT 3

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

EXHIBIT 3

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

EXHIBIT 3

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

EXHIBIT 3

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

U. S. DISTRICT JUDGE

MAR 05 1993

CHRIS R. JOHNSON, CLERK DATE: March 4, 1993

Deputy Clerk

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72014
LASER, SHARP, MAYES, WILSON, BUFFORD & WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP.

on _____ by _____

EXHIBIT 3

Opinion No. 2003-269

September 24, 2003

Mr. Raymond Simon, Director
Arkansas Department of Education
#4 Capitol Mall
Little Rock, Arkansas 72201-1071

Dear Mr. Simon:

I am writing in response to your request for an opinion on several questions relating to the "Arkansas Public School Choice Act of 1989," as amended. Specifically, you pose the following questions, which I have numbered below:

1. Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

2. In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

3. Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance

EXHIBIT 4

> with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

RESPONSE

I cannot provide an answer to your first and second questions, because the answer will depend upon the provisions of the applicable U.S. District Court order. In my opinion the answer to your third question is "no," the State Board of Education does not have this authority.

Question 1-- Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

Question 2-- In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

The "Arkansas Public School Choice Act of 1989" is codified at A.C.A. § 6-18-206. It has been amended several times since its original adoption, most recently by Act 1272 of 2003. This most recent act requires all school districts to participate in public school choice, rather than making such participation optional with each school board, as under prior law. The applicable statute sets out a procedure for a student or his or her parent or guardian to make application for a transfer of school districts. The statute also sets out, among other things, requirements pertaining to student transportation and the treatment of "state equalization aid" with regard to transferring students. Subsection (f) of the statute, which you reference in your request, provides as follows:

> (f) The provisions of this section and all student choice options created in this section are subject to the following limitations:
>
> (1) No student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that

EXHIBIT 4

percentage in the student's resident district except in the circumstances set forth in subdivisions (2) and (4) of this subsection;

(2) A transfer to a district is exempt from the restriction set forth in subdivision (f)(1) of this section if the transfer is between two (2) districts within a county, and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and non-resident district remain within an acceptable range of the county's overall minority percentage in the student's race and majority percentages of school population as set forth by the department;

(3) The department shall, by the filing deadline each year, compute the minority percentage in the student's race and majority percentages of each county's public school population from the October Annual School Report and shall then compute the acceptable range of variance from those percentages for school districts within each county. In establishing the acceptable range of variance, the department is directed to use the remedial guideline established in Little Rock School District v. Pulaski County Special School District of allowing an overrepresentation or underrepresentation of black or white students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance. In establishing the acceptable range of variance for school choice, the department is directed to use the remedial guideline of allowing an overrepresentation or underrepresentation of minority or majority students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance;

(4) A transfer is exempt from the restriction set forth in subdivision (f)(1) of this section if each school district within the county does not have a critical mass of minority percentage in the student's race students of more than ten percent (10%) of any single race;

(5) *In any instance where the foregoing provisions would result in a conflict with a desegregation court order or a district's court-*

EXHIBIT 4

> *approved desegregation plan, the terms of the order or plan shall govern;*
>
> (6) The department shall adopt appropriate rules and regulations to implement the provisions of this section; and
>
> (7) The department shall monitor school districts for compliance with this section.

A.C.A. § 6-18-206 (f), as amended by Act 1272 of 2003 (emphasis added).

The emphasized language of subsection (f)(5) above provides for the supremacy of a desegregation orders or court-approved desegregation plans in the case of a "conflict" between such orders and plans, on the one hand, and the "foregoing" provisions of A.C.A. § 6-18-206(f), which outline racial limitations and exceptions on transfers. Conceivably, therefore, a federal court order could, depending upon its provisions, have controlling effect over the provisions of A.C.A. § 6-18-206(f). The question in each instance will be whether the statutory provisions above actually conflict with any such a federal court order. Resolution of that type of question will depend upon the provisions of the order in question and any and all other pertinent facts and laws. I cannot determine this issue in the context of an official Attorney General opinion. As one of my predecessors stated in Op. Att'y Gen. 95-066:

> The construction of such [federal court] orders and agreements is best left to the parties themselves, or ultimately to the federal court. This office has not been provided with a copy of any federal court order or settlement agreement, and cannot, in the context of an official opinion of the Attorney General, especially where the state is not a party, presume to dictate actions to be taken under the rubric of such documents.

Id. at 2. *See also* Op. Att'y Gen. 94-139 (declining to interpret a federal court order and stating that "reference to th[e] particular court order, and possibly clarification from the federal court, would be necessary to resolve the issue conclusively).

I am therefore unable to render an opinion on your first and second questions above.

EXHIBIT 4

Question 3-- Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

Subsection (g) of A.C.A. § 6-18-206 provides that: "[t]he state board shall be authorized to resolve disputes arising under subsections (b) – (f) of this section."

In my opinion the State Board of Education does not have authority to determine that a school district "is in compliance with the Arkansas School Choice Act" where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision. *Cf. State Police v. McCall*, 98 A.D.2d 921, 470 N.Y.S.2d 916 (1983) ("State Human Rights Appeal Board" (a state administrative agency), did not exceed its jurisdiction in construing federal district court order, but only because its decision was supported by other documentary proof and board did not base its decision solely on an interpretation of federal court order).

Disputes involving construction of federal court orders are properly left to the parties thereto, and their respective counsels, or if necessary, to the issuing court itself.

Deputy Attorney General Elana C. Wills prepared the foregoing opinion, which I hereby approve.

Sincerely,

MIKE BEEBE
Attorney General

MB:ECW/cyh

EXHIBIT 4

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 18, 2014, 6:00 P.M.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday, March 18, 2014, 6:00 P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Johnny Brown, Stacey Modisette, Tonya Clark, and Frank Herrera.

President Lindsay Nutt called the meeting to order.

Ms. Stacey Modisette made a motion to approve the February 18, 2014 Regular Board minutes. Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Johnny Brown made a motion to approve the monthly financial obligations. Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0.

Ms. Stacey Modisette made a motion to accept the 2014-2015 Licensed Personnel Salary Schedule as presented. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

Mr. Brad Lloyd made a motion to approve the deletion of fixed assets as presented. Mr. Johnny Brown seconded the motion. Motion passed. Vote 6-0.

A record of production payments received from Weiser Brown Operation Company was presented for board review for informational purposes only.

Ms. Stacey Modisette made a motion to accept the 2014-2015 Calendar for LCSD. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Keith presented information from Strategos International regarding professional development and safety training for the 2014-2015 school year. Mr. Brad Lloyd made a motion to have this company provide the necessary professional development and training for the 2014-2015 school year. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Keith presented a resolution for Lafayette County School District to opt out of participation in the Public School Choice Act of 2013. Mr. Brad Lloyd made a motion to approve the Resolution stating that Lafayette County School District shall not participate in public school choice as defined by Ark. Code Ann. $$ 6-18-1901, et seq. Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0.

Mr. Keith gave an update of the facilities stating that a dishwasher is needing to be replaced in the High School Cafeteria. Bids are currently being accepted. Mr. Johnny Brown made a motion to let Mr. Keith handle this situation as necessary. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 5

The Board entered Executive Session. The Board re-entered Open Session.

Ms. Stacey Modisette made a motion to approve additional duties for Bobby Clark-Girls track coach. Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0

Mr. Johnny Brown made a motion to hire Administrative staff:

- Opal Anderson, High School Principal
- Betsy Griffin, Elementary Principal
- David Downs, Asst Principal/Dean
- Cheryl McMahen, Asst Elem. Principal
- Janet Walker, Federal Programs Coordinator

Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0

Ms. Tonya Clark made a motion to accept the resignation of Robert Haworth, Social Studies teacher. Mr. Johnny Brown seconded the motion. Motion passed. Vote 6-0

Mr. Brad Lloyd made a motion to accept the resignation of Joyce Smith and Michael Hamilton, High School Custodians. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0

There being no further business. Mr. Brad Lloyd made the motion to adjourn. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0

Lindsay Nutt
President

Stacey Modisette
Secretary

EXHIBIT 5

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 6

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 6

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 6

ASSOCIATED DOCUMENTS

Rejection ✓

005.19

mailed 5-6-15

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2013"

(Must Be Submitted to Non-Resident and Resident Districts)

APPLICANT INFORMATION

Student Name: [redacted] Elder

Student Date of Birth [redacted] Gender Male ☐ Female ☒

Grade: 7th At Present

Does the applicant require special needs or programs? Yes ☐ No ☒

Is applicant currently under expulsion? Yes ☐ No ☒

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☒

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: LaFayette County School District County Name: LaFayette County

Address: 712 Chestnut St Lewisville, AR 71845

Phone: 870-921-5500

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: Taylor School District County Name: Columbia County

Address: 506 East Pine St. Taylor, AR 71861

Phone: 870-694-2251

Does the applicant already have a sibling or step-sibling in attendance in this district?

no

PARENT OR GUARDIAN INFORMATION	
Name: John or Tiffanie Green	Home Phone: [redacted]
Address: [redacted]	Work Phone: [redacted]
Bachner, AR 71827	
Parent/Guardian Signature: Tiffanie Green	Date: 4/12/15

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district (with a copy to the resident district) or postmarked no later than June 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of 2013 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY	
Date and Time Received by Resident District:	Date and Time Received by Nonresident District: 8:00 4-15-15
Resident District LEA #:	Nonresident District LEA#:
Student's State Identification #:	
Application Accepted [ ]	Rejected [✓]
Reason for Rejection (If Applicable):	
Date Notification Sent to Parent/Guardian of Applicant: 5-6-15	
Date Notification Sent to Resident District : 5-21-15	

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2013"
(Must Be Submitted to Non-Resident and Resident Districts)

APPLICANT INFORMATION

Student Name: I[redacted] Green

Student Date of Birth: [redacted] Gender Male ☐ Female ☒

Grade: 3rd at present

Does the applicant require special needs or programs? Yes ☐ No ☒

Is applicant currently under expulsion? Yes ☐ No ☒

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☒

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: Lafayette Co. School District County Name: Lafayette County

Address: 712 Chestnut St Lewisville, AR 71845

Phone: 870-921-5500

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: Taylor School District County Name: Columbia County

Address: 506 East Pine St, Taylor, AR 71861

Phone: 870-694-5811

Does the applicant already have a sibling or step-sibling in attendance in this district?

PARENT OR GUARDIAN INFORMATION

Name: John or Tiffanie Green	Home Phone: [redacted]
Address: [redacted]	Work Phone: [redacted]
Buckner, AR 71827	
Parent/Guardian Signature: Tiffanie Green	Date: 4/12/15

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district (with a copy to the resident district) or postmarked no later than June 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of 2013 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY

Date and Time Received by Resident District:	Date and Time Received by Nonresident District: 8:00 4-15-15
Resident District LEA #:	Nonresident District LEA#:
Student's State Identification #:	
Application Accepted [ ]	Rejected [✓]
Reason for Rejection (If Applicable):	
Date Notification Sent to Parent/Guardian of Applicant: 5-6-15	
Date Notification Sent to Resident District : 5-21-15	

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2013"
(Must Be Submitted to Non-Resident and Resident Districts)

APPLICANT INFORMATION

Student Name: [redacted] Green

Student Date of Birth: [redacted] Gender Male ☐ Female ☒

Grade: 1st At present

Does the applicant require special needs or programs? Yes ☐ No ☒

Is applicant currently under expulsion? Yes ☐ No ☒

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☒

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: Lafayette Co. School District County Name: Lafayette County

Address: 712 Chestnut St, Lewisville, AR 71845

Phone: 870-921-5500

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: Taylor School District County Name: Columbia County

Address: 506 East Pine St Taylor, AR 71861

Phone: 870-694-5811

Does the applicant already have a sibling or step-sibling in attendance in this district?

NO

PARENT OR GUARDIAN INFORMATION	
Name: John or Tiffanie Green	Home Phone: [redacted]
Address: [redacted]	Work Phone: [redacted]
Buckner, Ark 71827	
Parent/Guardian Signature: Tiffanie Green	Date: 4/12/15

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district (with a copy to the resident district) or postmarked no later than June 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of 2013 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY	
Date and Time Received by Resident District:	Date and Time Received by Nonresident District: 8:00 4-15-15
Resident District LEA #:	Nonresident District LEA#:
Student's State Identification #:	
Application Accepted [ ]	Rejected [✓]
Reason for Rejection (If Applicable):	
Date Notification Sent to Parent/Guardian of Applicant: 5-6-15	
Date Notification Sent to Resident District : 5-21-15	

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2013"
(Must Be Submitted to Non-Resident and Resident Districts)

APPLICANT INFORMATION

Student Name: J[redacted] Green

Student Date of Birth: [redacted] Gender Male [X] Female [ ]

Grade: Kindergarten at present

Does the applicant require special needs or programs? Yes [ ] No [X]

Is applicant currently under expulsion? Yes [ ] No [X]

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races [ ] Asian [ ] African-American [ ]

Hispanic [ ] Native American/ Native Alaskan [ ] Native Hawaiian/ Pacific Islander [ ]

White [X]

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: Lafayette County School District County Name: Lafayette County

Address: 712 Chestnut St - Lewisville, AR 71845

Phone: 870-921-5500

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: Taylor School District County Name: Columbia Co

Address: 506 East Pine St - Taylor, AR 71861

Phone: 870-694-5811

Does the applicant already have a sibling or step-sibling in attendance in this district?

NO

PARENT OR GUARDIAN INFORMATION	
Name: John or Tiffanie Green	Home Phone: [redacted]
Address: [redacted]	Work Phone: [redacted]
Buckner, AR 71827	
Parent/Guardian Signature: Tiffanie Green	Date: 4/12/15

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district (with a copy to the resident district) or postmarked no later than June 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of 2013 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY	
Date and Time Received by Resident District:	Date and Time Received by Nonresident District: 8:00 4-15-15
Resident District LEA #:	Nonresident District LEA#:
Student's State Identification #:	
Application Accepted [ ]	Rejected [✓]
Reason for Rejection (If Applicable):	
Date Notification Sent to Parent/Guardian of Applicant: 5-6-15	
Date Notification Sent to Resident District : 5-21-15	

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Gary Hines, Superintendent

506 E. Pine St.
Taylor, AR 71861

May 6, 2015

John or Tiffanie Green
[redacted]
Buckner, AR 71827

Dear John or Tiffanie:

I regret to inform you that your applications for [redacted] Green, L[redacted] Green, [redacted] Green and L[redacted] Elder to attend Taylor Schools for the 2015-2016 school year under the "Arkansas Public School Choice Act of 2015" have been rejected. The reason for the rejection is as follows:

You are a resident of the Lafayette County School District. According to the Arkansas Department of Education, LCSD has opted out of the Arkansas Public School Choice Act. You can find this information on the ADE's website at www.arkansased.org. Click on the "school choice" link under the Educational Options heading.

You have the right to appeal this decision to the Arkansas State Board of Education. For more information contact the Office of the Commissioner at 501-682-4203.

Sincerely,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.*e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

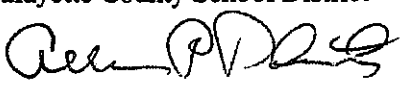
In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District



Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72014
LASER, SHARP, MAYES, WILSON, BUFFORD
& WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP,

on _____ by _____

SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection and applies for a school choice transfer under § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(3) A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under subdivision (c)(2) of this section may complete all remaining school years at the nonresident district.

SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to read as follows:

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district ~~with a copy to~~ ,which shall notify the resident district of the filing of the application;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) A nonresident district that receives an application under subsection (a) of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

(c) A nonresident district shall review and make a determination on each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

1 ~~subsection is irrevocable for one (1) year from the date the school district~~
2 ~~notifies the Department of Education of the declaration of exemption.~~
3 ~~(B) After each year of exemption, the board of directors~~
4 ~~may elect to participate in public school choice under this section if the~~
5 ~~school district's participation does not conflict with the school district's~~
6 ~~federal court-ordered desegregation program.~~
7 ~~(3) A school district shall notify the department by April 1 if~~
8 ~~in the next school year the school district intends to:~~
9 ~~(A) Declare an exemption under this section; or~~
10 ~~(B) Resume participation after a period of exemption.~~
11 ~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit
12 on school choice transfers each school year from a school district, less any
13 school choice transfers into the school district, under this section of not
14 *more than three percent (3%) of the* ~~*school district's three-quarter average*~~
15 ~~*daily membership for the*~~ *enrollment that exists in the school district as of*
16 *October 15 of the immediately preceding school year.*
17 (B) For the purpose of determining the percentage of school
18 choice transfers under this subsection, siblings who are counted in the
19 numerator as transfer students shall count as one (1) student~~, and siblings~~
20 ~~who are counted in the denominator as part of the average daily membership~~
21 ~~shall count as one (1) student~~.
22 (C) A student eligible to transfer to a nonresident
23 district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count
24 against the cap of three percent (3%) of the resident or nonresident
25 district.
26 (2) Annually by ~~June 1~~ *December 15*, the department shall report
27 to each school district the net maximum number of school choice transfers for
28 the ~~current~~ next school year.
29 (3) If a student is unable to transfer due to the limits under
30 this subsection, the resident district shall give the student priority for a
31 transfer in the ~~following~~ first school year in which the district is no
32 longer subject to subdivision § (b)(1) of this section in the order that the
33 resident district receives notices of applications under § 6-18-1905, as
34 evidenced by a notation made by the district on the applications indicating
35 date and time of receipt.
36

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY				
Date and Time Received by Resident District:			Date and Time Received by Nonresident District:	
Resident District LEA #:			Nonresident District LEA#:	
Student's State Identification #:				
Application	Accepted		Rejected	
Reason for Rejection (If Applicable):				
Date Notification Sent to Parent/Guardian of Applicant:				
Date Notification Sent to Resident District :				

HEARING PROCEDURES

-

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

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8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

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10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

June 3, 2015

Ms. Jamie Gardner
[redacted]
Stamps, AR 71860

Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Gary Hines, Superintendent
Emerson-Taylor-Bradley Sch. Dist.
506 E. Pine Street
Taylor, AR 71861

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is tentatively scheduled to hear the above-referenced appeal(s) on **Thursday, July 9, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on June 19, 2015**.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

/signed/

Jeremy C. Lasiter
General Counsel

cc: Mr. Johnny Key, Commissioner of Education
Ms. Annette Barnes, Asst. Commissioner, Public School Accountability
State Board of Education Office

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

RECEIVED
COMMISSIONER'S OFFICE
MAY 22 2015
DEPARTMENT OF EDUCATION

Dear Mr. Key,

My name is Jamie Gardner and I am the mother of two sons, L[redacted] Bevins and A[redacted] Bevins. L[redacted] and A[redacted] currently attend school at Lafayette County Public School where A[redacted] is in the 4th grade and L[redacted] is in the 7th grade. I am writing you in hopes of getting an appeal against Taylor School Districts rejection to enroll my children based on Lafayette County School District's opt out status. I have looked at the court case provided to the Arkansas Board of Education and I do not believe this is what the Board had in mind when the Arkansas School Choice Law was revised this year. The case is against Lewisville School in 1992. If it is against Lewisville School then how can it apply to Lafayette County School District all these years later? Also, what about the Stamps residents? Are we exempt from this since it is against Lewisville School District? Aside from the fact that I do not believe Lafayette County School District has the proper paperwork or circumstances to opt out of school choice, there are still serious safety issues here at our resident school district.

Lastly, I do not believe that Lafayette County School District is performing in the way it should be academically. After looking several places online, I came across a website called schooldigger.com. Here you can look to see how well your school is performing as well as how well other schools in the state are doing. I am more concerned than ever after visiting this website. With a total of 448 public schools in the state of Arkansas, Lafayette County is ranked at number 324. This is not giving my children the education they deserve nor is it giving them an education equal to their peers who live across the state. Taylor School District, the school district I am trying desperately to transfer my children to is ranked number 19.

Please look at the documents posted on the Arkansas Board of Education webpage and take our other concerns into consideration. We only want the best for our children and sadly Lafayette County Schools just isn't it. Thank you for your time and I look forward to hearing from you soon.

RECEIVED
ATTORNEY'S OFFICE
MAY 22 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

Sincerely,

Jamie Gardner

Jamie Gardner
[redacted]
Stamps, Ar.
71860
[redacted]

Garaner
[redacted]
Stamps, Ar.
71860

CERTIFIED MAIL™

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UNITED STATES POSTAGE
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Arkansas State Board of Education
Office of the Commissioner
Johnny Key
Four Capitol Mall, Room 304-A
Little Rock, Ar. 72201

7220181019

May 22, 2015

Office of the Commissioner
ATTN: Jeremy C. Lasiter
Four Capital Mall
Little Rock, AR 72201

RECEIVED
ATTORNEY'S OFFICE
MAY 29 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

RECEIVED
COMMISSIONER'S OFFICE
MAY 29 2015
DEPARTMENT OF EDUCATION

Dear Mr. Lasiter,

As per our phone conversation on May 21, 2015, the parents who were denied admission into the Taylor School District would like to request one appeal hearing. We were denied by Taylor based solely on the claim of a desegregation order by the Lafayette County School District. The parents who request one hearing are as follows:

Chad and Marcy Teague

Brad and Angela Lloyd

Richard and Mindy Morton

John and Tiffanie Greene

Jamie Gardner

Don and Michelle Wheelington

Thank you in advance for your cooperation in this request.

Sincerely,

Marcy Teague

Marcy Teague

[redacted]

MARCY TEAGUE
[redacted]
Stamps, AR 71860

SHREVEPORT LA 710
26 MAY 2015 PM 1 L

Office of the Commissioner
School Choice Appeals
ATTN: JEREMY C. LASITER
Four Capital Mall
LITTLE ROCK, AR 72201

72201101304

RESPONSE

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Gary Hines, Superintendent

506 E. Pine St.
Taylor, AR 71861

May 19, 2015

RECEIVED
COMMISSIONER'S OFFICE
MAY 27 2015
DEPARTMENT OF EDUCATION

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

Re: Appeals

To Whom It May Concern:

The Emerson-Taylor-Bradley School District has no additional information, evidence or arguments supporting its rejection of the students' applications. The rejection was based solely on the claim of a desegregation order by the Lafayette County School District and its listing on the ADE's website of such. If the State Board of Education determines that the LCSD is not under an enforceable desegregation order, the Emerson-Taylor-Bradley School District will reconsider the school choice applications from those submitted whose resident district is the Lafayette County School District.

Respectfully,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

RECEIVED
ATTORNEY'S OFFICE
MAY 27 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

Cc: Richard & Melinda Morton
Cc: Chad & Marcy Teague
Cc: Brad & Angela Lloyd
Cc: Joseph & Sharon Black
Cc: John & Tiffanie Green
Cc: Jamie Gardner
Cc: Michelle Wheelington

FUQUA CAMPBELL, P.A.
ATTORNEYS AT LAW

DAVID M. FUQUA
PHIL CAMPBELL
J. BLAKE HENDRIX
ABBIE DECKER RUCKER
PATRICK L. SPIVEY
ERIC R. GRIBBLE*
DEIDRA PARISH**+
WHITNEY F. MOORE
HALEY HEATH BURKS
CHRISTOPHER M. STEVENS
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** *Also Admitted in Texas*

RIVIERA TOWER
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+ 225 S. MAIN, SUITE 102
JONESBORO, ARKANSAS 72401
870.932.2177

Direct Dial: (501) 975-7122
Email: wmoore@fc-lawyers.com

June 19, 2015

VIA HAND-DELIVERY
Mr. Jeremy Lasiter
Attn: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, Arkansas 72201

Re: Lafayette County School District (Resident District)
Emerson-Taylor-Bradley School District (Non-Resident District)
Public School Choice Act of 2015 Appeals submitted by the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington families

Dear Mr. Lasiter:

Allen Roberts and I represent Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003.

LCSD is the resident district involved in the aforementioned Public School Choice Act of 2015 appeals filed by the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington families, all of whom applied for transfer to Emerson-Taylor-Bradley School District (ETBSD). ETBSD correctly denied all of the transfer requests based on LCSD's declaration of a conflict pursuant to Ark. Code Ann. 6-18-1906(a). In compliance with Ark. Code Ann. 6-13-113(b) and 6-18-1906(a)(2), LCSD has submitted to the Department of Education a copy of the consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div., which is a desegregation court order that conflicts with LCSD's participation in school choice.

Pursuant to your notice of hearing letter dated June 3, 2015, I would like to submit the following materials for consideration at the State Board of Education's July 9, 2015 meeting:

1. The resolution adopted by LCSD's board regarding LCSD's decision not to participate in school choice (**Exhibit 1**).
2. The April 21, 2015 letter from Allen Roberts regarding LCSD's decision not to participate in school choice (**Exhibit 2**).
3. The March 4, 1993 consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div (**Exhibit 3**).
4. Former Attorney General Mike Beebe's September 24, 2003 opinion regarding the State Board of Education's authority to construe court orders (**Exhibit 4**).
5. The March 18, 2014 minutes of the LCSD School Board, noting Brad Lloyd's motion in favor of LCSD not participating in school choice, which passed by a vote of 6-0 (**Exhibit 5**).
6. The March 17, 2015 minutes of the LCSD School Board, noting Brad Lloyd's second of a motion in favor of LCSD not participating in school choice, which passed by a vote of 6-0 (**Exhibit 6**).

The appeals question the validity of the order in *Turner*. There is no indication from the 2015 Act (nor from its predecessor, the Public School Choice act of 2013) that the legislature intended for the State Board of Education to review the propriety of a conflict claimed by a district pursuant to Ark. Code Ann. 6-18-1906(a). There is no provision in the Act that authorizes the Department or the State Board to approve or deny a district's submission. The Act only provides opportunity for a district to claim a conflict and provide the Department of Education with a copy of the conflicting order, which LCSD has done.

An Attorney General's opinion issued in 2003 regarding the School Choice Act of 1989 directly addresses the question of whether the State Board should review and interpret federal court orders. On September 24, 2003, the Attorney General's office wrote to then ADE director, Ray Simon, in Opinion No. 2003-269. Mr. Simon had asked whether or not the State Board of Education had the legal authority to decide whether a district could accept students outside the parameters of the 1989 Act "as long as the district is in compliance with the requirements of the assumed U.S. District Court Order?" (Exhibit 4, p. 2). Attorney General Beebe makes clear in the opinion that the State Board of Education should not seek to interpret federal court orders, stating:

> In my opinion the state Board of Education does not have authority to determine that a school district 'is in compliance with the Arkansas School Choice Act' where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision.

The opinion concludes with the note that disputes involving construction of federal court orders are properly left to the parties themselves, their respective counsels, or if necessary, to the issuing court itself. (Exhibit 4, p. 5).

The *Turner* case was filed by a black staff member and black parents of children attending Lewisville School District. (Exhibit 3, p. 1). Paragraph 4 of the decree specifically references "racial discrimination in . . . student assignment." (Exhibit 3, p. 2). Paragraphs 2 and 3 also address discrimination against students on the basis of race. (Exhibit 3, p. 2). Paragraph 12 requires the desegregation of all classes, programs, and activities offered by the district. (Exhibit 3, p. 5). The consent decree concludes by stating, in paragraph 18, that "the Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." (Exhibit 3, p. 6). As noted by Mr. Roberts in Exhibit 2, the desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (i.e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding. To the best of LCSD's knowledge, this is the last order entered in the case. There are no orders dismissing the case or declaring that LCSD is unitary.

The structure of the Act also strongly suggests that the assertion of a conflict is not appealable because there is no provision in either the Act or the emergency rules that the resident district do anything when the non-resident district denies the application. This logically should mean that appeals are limited to issues such as enrollment caps and capacity issues. The applications were denied solely due to LCSD's conflict, not due to capacity or enrollment caps.

The Act also lacks any provision for the resident district to be heard as a party on appeal. If an appeal of the asserted conflict was contemplated, then party status would have been accorded the resident district. Because it was not, consideration of an appeal on those grounds without providing for party status for the resident district would result in a denial of procedural and substantive due process to the resident district.

The appeals state various reasons why these families would like to leave LCSD and enroll their children in ETBSD. However, none of those reasons override the federal court order presented by LCSD, as permitted by the Act.

For the foregoing reasons, the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington appeals should be denied. We appreciate your consideration of this response and request an opportunity to be heard at the hearing.

Respectfully submitted,

Whitney F. Moore and Allen P. Roberts
Attorneys for Lafayette County School District

cc: Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Allen P. Roberts
Allen P. Roberts, P.A.
P.O. Box 280
Camden, AR 71711

Gary Hines, Superintendent
Emerson-Taylor-Bradley School District
506 E. Pine Street
Taylor, AR 71861

Joseph and Sharon Black
1204 Hilltop Drive
Stamps, AR 71860

Jamie Gardner
176 Lafayette 27
Stamps, AR 71860

Tiffanie Green
476 Lafayette 43
Buckner, AR 71827

Brad and Angela Lloyd
698 Lafayette 28
Lewisville, AR 71845

Richard and Melinda Morton
P.O. Box 232
Lewisville, AR 71845

Chad and Marcy Teague
1283 Lafayette 31
Stamps, AR 71860

Michelle Wheelington
1520 Nevada 3
Stamps, AR 71860

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 1

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

EXHIBIT 2

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District

Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

EXHIBIT 3

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

EXHIBIT 3

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

EXHIBIT 3

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

EXHIBIT 3

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

EXHIBIT 3

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

EXHIBIT 3

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

U. S. DISTRICT JUDGE

MAR 05 1993

CHRIS R. JOHNSON, CLERK DATE: March 4, 1993

Deputy Clerk

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72014
LASER, SHARP, MAYES, WILSON, BUFFORD & WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP.

on _____ by _____

EXHIBIT 3

Opinion No. 2003-269

September 24, 2003

Mr. Raymond Simon, Director
Arkansas Department of Education
#4 Capitol Mall
Little Rock, Arkansas 72201-1071

Dear Mr. Simon:

I am writing in response to your request for an opinion on several questions relating to the "Arkansas Public School Choice Act of 1989," as amended. Specifically, you pose the following questions, which I have numbered below:

1. Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

2. In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

3. Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance

EXHIBIT 4

> with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

RESPONSE

I cannot provide an answer to your first and second questions, because the answer will depend upon the provisions of the applicable U.S. District Court order. In my opinion the answer to your third question is "no," the State Board of Education does not have this authority.

Question 1-- Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

Question 2-- In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

The "Arkansas Public School Choice Act of 1989" is codified at A.C.A. § 6-18-206. It has been amended several times since its original adoption, most recently by Act 1272 of 2003. This most recent act requires all school districts to participate in public school choice, rather than making such participation optional with each school board, as under prior law. The applicable statute sets out a procedure for a student or his or her parent or guardian to make application for a transfer of school districts. The statute also sets out, among other things, requirements pertaining to student transportation and the treatment of "state equalization aid" with regard to transferring students. Subsection (f) of the statute, which you reference in your request, provides as follows:

> (f) The provisions of this section and all student choice options created in this section are subject to the following limitations:
>
> (1) No student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that

EXHIBIT 4

percentage in the student's resident district except in the circumstances set forth in subdivisions (2) and (4) of this subsection;

(2) A transfer to a district is exempt from the restriction set forth in subdivision (f)(1) of this section if the transfer is between two (2) districts within a county, and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and non-resident district remain within an acceptable range of the county's overall minority percentage in the student's race and majority percentages of school population as set forth by the department;

(3) The department shall, by the filing deadline each year, compute the minority percentage in the student's race and majority percentages of each county's public school population from the October Annual School Report and shall then compute the acceptable range of variance from those percentages for school districts within each county. In establishing the acceptable range of variance, the department is directed to use the remedial guideline established in Little Rock School District v. Pulaski County Special School District of allowing an overrepresentation or underrepresentation of black or white students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance. In establishing the acceptable range of variance for school choice, the department is directed to use the remedial guideline of allowing an overrepresentation or underrepresentation of minority or majority students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance;

(4) A transfer is exempt from the restriction set forth in subdivision (f)(1) of this section if each school district within the county does not have a critical mass of minority percentage in the student's race students of more than ten percent (10%) of any single race;

(5) *In any instance where the foregoing provisions would result in a conflict with a desegregation court order or a district's court-*

EXHIBIT 4

> *approved desegregation plan, the terms of the order or plan shall govern;*
>
> (6) The department shall adopt appropriate rules and regulations to implement the provisions of this section; and
>
> (7) The department shall monitor school districts for compliance with this section.

A.C.A. § 6-18-206 (f), as amended by Act 1272 of 2003 (emphasis added).

The emphasized language of subsection (f)(5) above provides for the supremacy of a desegregation orders or court-approved desegregation plans in the case of a "conflict" between such orders and plans, on the one hand, and the "foregoing" provisions of A.C.A. § 6-18-206(f), which outline racial limitations and exceptions on transfers. Conceivably, therefore, a federal court order could, depending upon its provisions, have controlling effect over the provisions of A.C.A. § 6-18-206(f). The question in each instance will be whether the statutory provisions above actually conflict with any such a federal court order. Resolution of that type of question will depend upon the provisions of the order in question and any and all other pertinent facts and laws. I cannot determine this issue in the context of an official Attorney General opinion. As one of my predecessors stated in Op. Att'y Gen. 95-066:

> The construction of such [federal court] orders and agreements is best left to the parties themselves, or ultimately to the federal court. This office has not been provided with a copy of any federal court order or settlement agreement, and cannot, in the context of an official opinion of the Attorney General, especially where the state is not a party, presume to dictate actions to be taken under the rubric of such documents.

Id. at 2. *See also* Op. Att'y Gen. 94-139 (declining to interpret a federal court order and stating that "reference to th[e] particular court order, and possibly clarification from the federal court, would be necessary to resolve the issue conclusively).

I am therefore unable to render an opinion on your first and second questions above.

EXHIBIT 4

Question 3-- Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

Subsection (g) of A.C.A. § 6-18-206 provides that: "[t]he state board shall be authorized to resolve disputes arising under subsections (b) – (f) of this section."

In my opinion the State Board of Education does not have authority to determine that a school district "is in compliance with the Arkansas School Choice Act" where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision. *Cf. State Police v. McCall*, 98 A.D.2d 921, 470 N.Y.S.2d 916 (1983) ("State Human Rights Appeal Board" (a state administrative agency), did not exceed its jurisdiction in construing federal district court order, but only because its decision was supported by other documentary proof and board did not base its decision solely on an interpretation of federal court order).

Disputes involving construction of federal court orders are properly left to the parties thereto, and their respective counsels, or if necessary, to the issuing court itself.

Deputy Attorney General Elana C. Wills prepared the foregoing opinion, which I hereby approve.

Sincerely,

MIKE BEEBE
Attorney General

MB:ECW/cyh

EXHIBIT 4

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 18, 2014, 6:00 P.M.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday, March 18, 2014, 6:00 P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Johnny Brown, Stacey Modisette, Tonya Clark, and Frank Herrera.

President Lindsay Nutt called the meeting to order.

Ms. Stacey Modisette made a motion to approve the February 18, 2014 Regular Board minutes. Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Johnny Brown made a motion to approve the monthly financial obligations. Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0.

Ms. Stacey Modisette made a motion to accept the 2014-2015 Licensed Personnel Salary Schedule as presented. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

Mr. Brad Lloyd made a motion to approve the deletion of fixed assets as presented. Mr. Johnny Brown seconded the motion. Motion passed. Vote 6-0.

A record of production payments received from Weiser Brown Operation Company was presented for board review for informational purposes only.

Ms. Stacey Modisette made a motion to accept the 2014-2015 Calendar for LCSD. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Keith presented information from Strategos International regarding professional development and safety training for the 2014-2015 school year. Mr. Brad Lloyd made a motion to have this company provide the necessary professional development and training for the 2014-2015 school year. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Keith presented a resolution for Lafayette County School District to opt out of participation in the Public School Choice Act of 2013. Mr. Brad Lloyd made a motion to approve the Resolution stating that Lafayette County School District shall not participate in public school choice as defined by Ark. Code Ann. $$ 6-18-1901, et seq. Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0.

Mr. Keith gave an update of the facilities stating that a dishwasher is needing to be replaced in the High School Cafeteria. Bids are currently being accepted. Mr. Johnny Brown made a motion to let Mr. Keith handle this situation as necessary. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 5

The Board entered Executive Session. The Board re-entered Open Session.

Ms. Stacey Modisette made a motion to approve additional duties for Bobby Clark-Girls track coach. Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0

Mr. Johnny Brown made a motion to hire Administrative staff:

- Opal Anderson, High School Principal
- Betsy Griffin, Elementary Principal
- David Downs, Asst Principal/Dean
- Cheryl McMahen, Asst Elem. Principal
- Janet Walker, Federal Programs Coordinator

Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0

Ms. Tonya Clark made a motion to accept the resignation of Robert Haworth, Social Studies teacher. Mr. Johnny Brown seconded the motion. Motion passed. Vote 6-0

Mr. Brad Lloyd made a motion to accept the resignation of Joyce Smith and Michael Hamilton, High School Custodians. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0

There being no further business. Mr. Brad Lloyd made the motion to adjourn. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0

Lindsay Nutt
President

Stacey Modisette
Secretary

EXHIBIT 5

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 6

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 6

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 6

ASSOCIATED DOCUMENTS

Rejected
mailed 5-6-15

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT
"ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"
(Must Be Submitted to Non-Resident District)

APPLICANT INFORMATION

L[redacted] Bevins

Student Name: [redacted]

Student Date of Birth: Gender Male [X] Female [ ]

Grade: in 7th grade now

Does the applicant require special needs or programs? Yes [ ] No [X]

Is applicant currently under expulsion? Yes [ ] No [X]

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races [ ] Asian [ ] African-American [ ]

Hispanic [ ] Native American/ Native Alaskan [ ] Native Hawaiian/ Pacific Islander [ ]

White [X]

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: Lafayette County High School County Name: Lafayette County

Address: P.O. Box 950 Lewisville, Ar. 71845

Phone: 870-533-4464

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: Taylor High School County Name: Lafayette

Address: 506 E. Pine St. Taylor, Ar. 71861

Phone: 870-694-2251

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015? NO

PARENT OR GUARDIAN INFORMATION

Name: Jamie Gardner

Home Phone: [redacted]

Address: [redacted] Stamps, Ar 71860

Work Phone:

Parent/Guardian Signature: Jamie Gardner

Date: 4/23/15

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY

Date and Time Received by Resident District:	Date and Time Received by Nonresident District: 8:00 4-26-15
Resident District LEA #:	Nonresident District LEA#:

Student's State Identification #:

Application	Accepted		Rejected	✓

Reason for Rejection (If Applicable):

Date Notification Sent to Parent/Guardian of Applicant: 5-6-15

Date Notification Sent to Resident District : 5-21-15

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT
"ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"
(Must Be Submitted to Non-Resident District)

APPLICANT INFORMATION

Student Name: A[redacted] Bevins

Student Date of Birth: [redacted] Gender Male [X] Female [ ]

Grade: in 5th now

Does the applicant require special needs or programs? Yes [ ] No [X]

Is applicant currently under expulsion? Yes [ ] No [X]

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races [ ] Asian [ ] African-American [ ]

Hispanic [ ] Native American/ Native Alaskan [ ] Native Hawaiian/ Pacific Islander [ ]

White [X]

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: Lafayette County Middle School County Name: Lafayette

Address: P.O. Box 950 Lewisville, Ar. 71845

Phone: 870-533-4464

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: Taylor High School County Name: Lafayette

Address: 506 E. Pine St. Taylor, Ar. 71861

Phone: 870-694-2251

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015? no

PARENT OR GUARDIAN INFORMATION

Name: Jamie Gardner

Home Phone: [redacted]

Address: [redacted] Stamps AR 71860

Work Phone:

Parent/Guardian Signature: Jamie Gardner

Date: 4/23/15

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY

Date and Time Received by Resident District:	Date and Time Received by Nonresident District: 8:00 4-26-15
Resident District LEA #:	Nonresident District LEA#:

Student's State Identification #:

Application	Accepted		Rejected	✓

Reason for Rejection (If Applicable):

Date Notification Sent to Parent/Guardian of Applicant: 5-6-15

Date Notification Sent to Resident District : 5-21-15

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Gary Hines, Superintendent

506 E. Pine St.
Taylor, AR 71861

May 6, 2015

Jamie Gardner
[redacted]
Stamps, AR 71860

Dear Jamie:

I regret to inform you that your applications for A[redacted] Bevins and L[redacted] Bevins to attend Taylor Schools for the 2015-2016 school year under the "Arkansas Public School Choice Act of 2015" have been rejected. The reason for the rejection is as follows:

You are a resident of the Lafayette County School District. According to the Arkansas Department of Education, LCSD has opted out of the Arkansas Public School Choice Act. You can find this information on the ADE's website at www.arkansased.org. Click on the "school choice" link under the Educational Options heading.

You have the right to appeal this decision to the Arkansas State Board of Education. For more information contact the Office of the Commissioner at 501-682-4203.

Sincerely,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.*e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

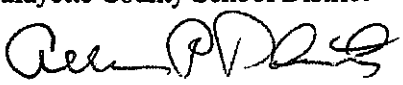
In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District



Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72014
LASER, SHARP, MAYES, WILSON, BUFFORD
& WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP,

on _____ by _____

SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection and applies for a school choice transfer under § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(3) A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under subdivision (c)(2) of this section may complete all remaining school years at the nonresident district.

SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to read as follows:

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district ~~with a copy to~~ ,which shall notify the resident district of the filing of the application;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) A nonresident district that receives an application under subsection (a) of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

(c) A nonresident district shall review and make a determination on each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

1 ~~subsection is irrevocable for one (1) year from the date the school district~~
2 ~~notifies the Department of Education of the declaration of exemption.~~
3 ~~(B) After each year of exemption, the board of directors~~
4 ~~may elect to participate in public school choice under this section if the~~
5 ~~school district's participation does not conflict with the school district's~~
6 ~~federal court-ordered desegregation program.~~
7 ~~(3) A school district shall notify the department by April 1 if~~
8 ~~in the next school year the school district intends to:~~
9 ~~(A) Declare an exemption under this section; or~~
10 ~~(B) Resume participation after a period of exemption.~~
11 ~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit
12 on school choice transfers each school year from a school district, less any
13 school choice transfers into the school district, under this section of not
14 *more than three percent (3%) of the* ~~*school district's three-quarter average*~~
15 ~~*daily membership for the*~~ *enrollment that exists in the school district as of*
16 *October 15 of the immediately preceding school year.*
17 (B) For the purpose of determining the percentage of school
18 choice transfers under this subsection, siblings who are counted in the
19 numerator as transfer students shall count as one (1) student~~, and siblings~~
20 ~~who are counted in the denominator as part of the average daily membership~~
21 ~~shall count as one (1) student~~.
22 (C) A student eligible to transfer to a nonresident
23 district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count
24 against the cap of three percent (3%) of the resident or nonresident
25 district.
26 (2) Annually by ~~June 1~~ *December 15*, the department shall report
27 to each school district the net maximum number of school choice transfers for
28 the ~~current~~ next school year.
29 (3) If a student is unable to transfer due to the limits under
30 this subsection, the resident district shall give the student priority for a
31 transfer in the ~~following~~ first school year in which the district is no
32 longer subject to subdivision § (b)(1) of this section in the order that the
33 resident district receives notices of applications under § 6-18-1905, as
34 evidenced by a notation made by the district on the applications indicating
35 date and time of receipt.
36

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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A.C.A. § 6-18-1901

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY				
Date and Time Received by Resident District:			Date and Time Received by Nonresident District:	
Resident District LEA #:			Nonresident District LEA#:	
Student's State Identification #:				
Application	Accepted		Rejected	
Reason for Rejection (If Applicable):				
Date Notification Sent to Parent/Guardian of Applicant:				
Date Notification Sent to Resident District :				

HEARING PROCEDURES

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

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10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

June 3, 2015

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

Ms. Michelle Wheelington
[redacted]
Stamps, AR 71860

Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Gary Hines, Superintendent
Emerson-Taylor-Bradley Sch. Dist.
506 E. Pine Street
Taylor, AR 71861

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is tentatively scheduled to hear the above-referenced appeal(s) on **Thursday, July 9, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on June 19, 2015**.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

/signed/

Jeremy C. Lasiter
General Counsel

cc: Mr. Johnny Key, Commissioner of Education
Ms. Annette Barnes, Asst. Commissioner, Public School Accountability
State Board of Education Office

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

RECEIVED
COMMISSIONER'S OFFICE

MAY 22 2015

DEPARTMENT OF EDUCATION

May 18, 2015

Dear Mr. Key,

My name is Michelle Wheelington and I am the mother of [redacted] Wheelington. [redacted] currently attends Lafayette County High School. He is in the 9th grade. I am writing you in the hopes of getting an appeal against Taylor School Districts rejection to enroll my son based on Lafayette County School District opting out status to the School Choice of 2015. I have looked at the Court case Turner vs. Lewisville School District in 1992 which was final on Dec. 15, 1993. Mr. Richards stated that this is still an ongoing case is the reason they opted out of school choice 2015. If this is true, where is the current documents to prove this. How can this apply to Lafayette County School District this many years later. Aside from that, I do not believe Lafayette County School District has the proper paperwork to support this. I believe that there are still serious issues at our resident school district.

I do not believe Lafayette County school District is performing in the way it should academically. After looking several places online, I came across a website called schooldigger.com. Here you can see how well your school is performing as well as the other schools. I am concerned about Lafayette County School after seeing how it ranked out of the district schools. Out of 234 districts Lafayette County ranked 209 where Taylor School District ranked 19 out of 234.

I know that there is several great teachers leaving the school and I feel that this needs to be investigated. I know there has been fights, drugs and molestations at Lafayette County School. I believe that my son is not getting the education that he deserves or that is equal to the education of students across the state. Taylor School District is the school I feel will give my son that education and I am desperately seeking to get my son Cody Wheelington transferred to Taylor School District.

Please look into the documents posted online on the Arkansas Board of Education webpage and take my concern into consideration. I only want the best for my son and sadly Lafayette County School just isn't it.

Thank You for your time and I look forward to hearing from you soon.

Sincerely,

Michelle Wheelington

Michelle Wheelington

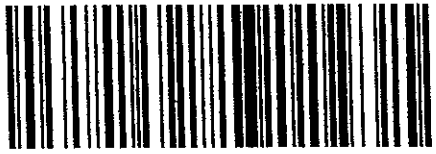
RECEIVED
ATTORNEY'S OFFICE

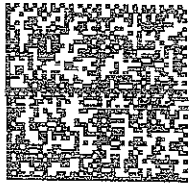
MAY 22 2015

DEPARTMENT OF EDUCATION
GENERAL DIVISION

Michelle Wheelington
[redacted]
Stamps, AR 71860

CERTIFIED MAIL™





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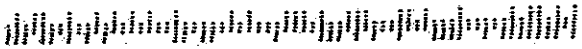
ARKANSAS STATE DEPARTMENT OF EDUCATION
OFFICE OF THE COMMISSIONER
JOHNNY KEY
FOUR CAPITOL MALL, ROOM 304A
LITTLE ROCK, AR 72201

72201$1019 C024



May 22, 2015

Office of the Commissioner
ATTN: Jeremy C. Lasiter
Four Capital Mall
Little Rock, AR 72201

RECEIVED
ATTORNEY'S OFFICE
MAY 29 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

RECEIVED
COMMISSIONER'S OFFICE
MAY 29 2015
DEPARTMENT OF EDUCATION

Dear Mr. Lasiter,

As per our phone conversation on May 21, 2015, the parents who were denied admission into the Taylor School District would like to request one appeal hearing. We were denied by Taylor based solely on the claim of a desegregation order by the Lafayette County School District. The parents who request one hearing are as follows:

Chad and Marcy Teague

Brad and Angela Lloyd

Richard and Mindy Morton

John and Tiffanie Greene

Jamie Gardner

Don and Michelle Wheelington

Thank you in advance for your cooperation in this request.

Sincerely,

Marcy Teague

[redacted]

MARCY TEAGUE
[redacted]
STAMPS, AR 71860

SHREVEPORT LA 710
26 MAY 2015 PM 1 L

Office of the Commissioner
School Choice Appeals
ATTN: JEREMY C. LASITER
Four Capital Mall
LITTLE ROCK, AR 72201

72201101304

RESPONSE

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Gary Hines, Superintendent

506 E. Pine St.
Taylor, AR 71861

May 19, 2015

RECEIVED
COMMISSIONER'S OFFICE
MAY 27 2015
DEPARTMENT OF EDUCATION

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

Re: Appeals

To Whom It May Concern:

The Emerson-Taylor-Bradley School District has no additional information, evidence or arguments supporting its rejection of the students' applications. The rejection was based solely on the claim of a desegregation order by the Lafayette County School District and its listing on the ADE's website of such. If the State Board of Education determines that the LCSD is not under an enforceable desegregation order, the Emerson-Taylor-Bradley School District will reconsider the school choice applications from those submitted whose resident district is the Lafayette County School District.

Respectfully,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

RECEIVED
ATTORNEY'S OFFICE
MAY 27 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

Cc: Richard & Melinda Morton
Cc: Chad & Marcy Teague
Cc: Brad & Angela Lloyd
Cc: Joseph & Sharon Black
Cc: John & Tiffanie Green
Cc: Jamie Gardner
Cc: Michelle Wheelington

FUQUA CAMPBELL, P.A.
ATTORNEYS AT LAW

DAVID M. FUQUA
PHIL CAMPBELL
J. BLAKE HENDRIX
ABBIE DECKER RUCKER
PATRICK L. SPIVEY
ERIC R. GRIBBLE*
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WHITNEY F. MOORE
HALEY HEATH BURKS
CHRISTOPHER M. STEVENS
KAYLEN S. LEWIS
SAMUEL C. BABER

* *Also Admitted in Missouri*
** *Also Admitted in Texas*

RIVIERA TOWER
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ALLEN P. ROBERTS, of Counsel
MIKE MUNNERLYN, of Counsel
JAMES WILLIAM McLEOD, of Counsel +

+ 225 S. MAIN, SUITE 102
JONESBORO, ARKANSAS 72401
870.932.2177

Direct Dial: (501) 975-7122
Email: wmoore@fc-lawyers.com

June 19, 2015

VIA HAND-DELIVERY
Mr. Jeremy Lasiter
Attn: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, Arkansas 72201

Re: Lafayette County School District (Resident District)
Emerson-Taylor-Bradley School District (Non-Resident District)
Public School Choice Act of 2015 Appeals submitted by the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington families

Dear Mr. Lasiter:

Allen Roberts and I represent Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003.

LCSD is the resident district involved in the aforementioned Public School Choice Act of 2015 appeals filed by the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington families, all of whom applied for transfer to Emerson-Taylor-Bradley School District (ETBSD). ETBSD correctly denied all of the transfer requests based on LCSD's declaration of a conflict pursuant to Ark. Code Ann. 6-18-1906(a). In compliance with Ark. Code Ann. 6-13-113(b) and 6-18-1906(a)(2), LCSD has submitted to the Department of Education a copy of the consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div., which is a desegregation court order that conflicts with LCSD's participation in school choice.

Pursuant to your notice of hearing letter dated June 3, 2015, I would like to submit the following materials for consideration at the State Board of Education's July 9, 2015 meeting:

1. The resolution adopted by LCSD's board regarding LCSD's decision not to participate in school choice (**Exhibit 1**).
2. The April 21, 2015 letter from Allen Roberts regarding LCSD's decision not to participate in school choice (**Exhibit 2**).
3. The March 4, 1993 consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div (**Exhibit 3**).
4. Former Attorney General Mike Beebe's September 24, 2003 opinion regarding the State Board of Education's authority to construe court orders (**Exhibit 4**).
5. The March 18, 2014 minutes of the LCSD School Board, noting Brad Lloyd's motion in favor of LCSD not participating in school choice, which passed by a vote of 6-0 (**Exhibit 5**).
6. The March 17, 2015 minutes of the LCSD School Board, noting Brad Lloyd's second of a motion in favor of LCSD not participating in school choice, which passed by a vote of 6-0 (**Exhibit 6**).

The appeals question the validity of the order in *Turner*. There is no indication from the 2015 Act (nor from its predecessor, the Public School Choice act of 2013) that the legislature intended for the State Board of Education to review the propriety of a conflict claimed by a district pursuant to Ark. Code Ann. 6-18-1906(a). There is no provision in the Act that authorizes the Department or the State Board to approve or deny a district's submission. The Act only provides opportunity for a district to claim a conflict and provide the Department of Education with a copy of the conflicting order, which LCSD has done.

An Attorney General's opinion issued in 2003 regarding the School Choice Act of 1989 directly addresses the question of whether the State Board should review and interpret federal court orders. On September 24, 2003, the Attorney General's office wrote to then ADE director, Ray Simon, in Opinion No. 2003-269. Mr. Simon had asked whether or not the State Board of Education had the legal authority to decide whether a district could accept students outside the parameters of the 1989 Act "as long as the district is in compliance with the requirements of the assumed U.S. District Court Order?" (Exhibit 4, p. 2). Attorney General Beebe makes clear in the opinion that the State Board of Education should not seek to interpret federal court orders, stating:

> In my opinion the state Board of Education does not have authority to determine that a school district 'is in compliance with the Arkansas School Choice Act' where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision.

The opinion concludes with the note that disputes involving construction of federal court orders are properly left to the parties themselves, their respective counsels, or if necessary, to the issuing court itself. (Exhibit 4, p. 5).

The *Turner* case was filed by a black staff member and black parents of children attending Lewisville School District. (Exhibit 3, p. 1). Paragraph 4 of the decree specifically references "racial discrimination in . . . student assignment." (Exhibit 3, p. 2). Paragraphs 2 and 3 also address discrimination against students on the basis of race. (Exhibit 3, p. 2). Paragraph 12 requires the desegregation of all classes, programs, and activities offered by the district. (Exhibit 3, p. 5). The consent decree concludes by stating, in paragraph 18, that "the Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." (Exhibit 3, p. 6). As noted by Mr. Roberts in Exhibit 2, the desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (i.e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding. To the best of LCSD's knowledge, this is the last order entered in the case. There are no orders dismissing the case or declaring that LCSD is unitary.

The structure of the Act also strongly suggests that the assertion of a conflict is not appealable because there is no provision in either the Act or the emergency rules that the resident district do anything when the non-resident district denies the application. This logically should mean that appeals are limited to issues such as enrollment caps and capacity issues. The applications were denied solely due to LCSD's conflict, not due to capacity or enrollment caps.

The Act also lacks any provision for the resident district to be heard as a party on appeal. If an appeal of the asserted conflict was contemplated, then party status would have been accorded the resident district. Because it was not, consideration of an appeal on those grounds without providing for party status for the resident district would result in a denial of procedural and substantive due process to the resident district.

The appeals state various reasons why these families would like to leave LCSD and enroll their children in ETBSD. However, none of those reasons override the federal court order presented by LCSD, as permitted by the Act.

For the foregoing reasons, the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington appeals should be denied. We appreciate your consideration of this response and request an opportunity to be heard at the hearing.

Respectfully submitted,

Whitney F. Moore and Allen P. Roberts
Attorneys for Lafayette County School District

cc: Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Allen P. Roberts
Allen P. Roberts, P.A.
P.O. Box 280
Camden, AR 71711

Gary Hines, Superintendent
Emerson-Taylor-Bradley School District
506 E. Pine Street
Taylor, AR 71861

Joseph and Sharon Black
1204 Hilltop Drive
Stamps, AR 71860

Jamie Gardner
176 Lafayette 27
Stamps, AR 71860

Tiffanie Green
476 Lafayette 43
Buckner, AR 71827

Brad and Angela Lloyd
698 Lafayette 28
Lewisville, AR 71845

Richard and Melinda Morton
P.O. Box 232
Lewisville, AR 71845

Chad and Marcy Teague
1283 Lafayette 31
Stamps, AR 71860

Michelle Wheelington
1520 Nevada 3
Stamps, AR 71860

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 1

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

EXHIBIT 2

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District

Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

EXHIBIT 3

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

EXHIBIT 3

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

EXHIBIT 3

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

EXHIBIT 3

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

EXHIBIT 3

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

EXHIBIT 3

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

U. S. DISTRICT JUDGE

MAR 05 1993

CHRIS R. JOHNSON, CLERK DATE: March 4, 1993

Deputy Clerk

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72014
LASER, SHARP, MAYES, WILSON, BUFFORD & WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP.

on _____ by _____

EXHIBIT 3

Opinion No. 2003-269

September 24, 2003

Mr. Raymond Simon, Director
Arkansas Department of Education
#4 Capitol Mall
Little Rock, Arkansas 72201-1071

Dear Mr. Simon:

I am writing in response to your request for an opinion on several questions relating to the "Arkansas Public School Choice Act of 1989," as amended. Specifically, you pose the following questions, which I have numbered below:

1. Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

2. In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

3. Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance

EXHIBIT 4

> with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

RESPONSE

I cannot provide an answer to your first and second questions, because the answer will depend upon the provisions of the applicable U.S. District Court order. In my opinion the answer to your third question is "no," the State Board of Education does not have this authority.

Question 1-- Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

Question 2-- In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

The "Arkansas Public School Choice Act of 1989" is codified at A.C.A. § 6-18-206. It has been amended several times since its original adoption, most recently by Act 1272 of 2003. This most recent act requires all school districts to participate in public school choice, rather than making such participation optional with each school board, as under prior law. The applicable statute sets out a procedure for a student or his or her parent or guardian to make application for a transfer of school districts. The statute also sets out, among other things, requirements pertaining to student transportation and the treatment of "state equalization aid" with regard to transferring students. Subsection (f) of the statute, which you reference in your request, provides as follows:

> (f) The provisions of this section and all student choice options created in this section are subject to the following limitations:
>
> (1) No student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that

EXHIBIT 4

percentage in the student's resident district except in the circumstances set forth in subdivisions (2) and (4) of this subsection;

(2) A transfer to a district is exempt from the restriction set forth in subdivision (f)(1) of this section if the transfer is between two (2) districts within a county, and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and non-resident district remain within an acceptable range of the county's overall minority percentage in the student's race and majority percentages of school population as set forth by the department;

(3) The department shall, by the filing deadline each year, compute the minority percentage in the student's race and majority percentages of each county's public school population from the October Annual School Report and shall then compute the acceptable range of variance from those percentages for school districts within each county. In establishing the acceptable range of variance, the department is directed to use the remedial guideline established in Little Rock School District v. Pulaski County Special School District of allowing an overrepresentation or underrepresentation of black or white students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance. In establishing the acceptable range of variance for school choice, the department is directed to use the remedial guideline of allowing an overrepresentation or underrepresentation of minority or majority students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance;

(4) A transfer is exempt from the restriction set forth in subdivision (f)(1) of this section if each school district within the county does not have a critical mass of minority percentage in the student's race students of more than ten percent (10%) of any single race;

(5) *In any instance where the foregoing provisions would result in a conflict with a desegregation court order or a district's court-*

EXHIBIT 4

> *approved desegregation plan, the terms of the order or plan shall govern;*
>
> (6) The department shall adopt appropriate rules and regulations to implement the provisions of this section; and
>
> (7) The department shall monitor school districts for compliance with this section.

A.C.A. § 6-18-206 (f), as amended by Act 1272 of 2003 (emphasis added).

The emphasized language of subsection (f)(5) above provides for the supremacy of a desegregation orders or court-approved desegregation plans in the case of a "conflict" between such orders and plans, on the one hand, and the "foregoing" provisions of A.C.A. § 6-18-206(f), which outline racial limitations and exceptions on transfers. Conceivably, therefore, a federal court order could, depending upon its provisions, have controlling effect over the provisions of A.C.A. § 6-18-206(f). The question in each instance will be whether the statutory provisions above actually conflict with any such a federal court order. Resolution of that type of question will depend upon the provisions of the order in question and any and all other pertinent facts and laws. I cannot determine this issue in the context of an official Attorney General opinion. As one of my predecessors stated in Op. Att'y Gen. 95-066:

> The construction of such [federal court] orders and agreements is best left to the parties themselves, or ultimately to the federal court. This office has not been provided with a copy of any federal court order or settlement agreement, and cannot, in the context of an official opinion of the Attorney General, especially where the state is not a party, presume to dictate actions to be taken under the rubric of such documents.

Id. at 2. *See also* Op. Att'y Gen. 94-139 (declining to interpret a federal court order and stating that "reference to th[e] particular court order, and possibly clarification from the federal court, would be necessary to resolve the issue conclusively).

I am therefore unable to render an opinion on your first and second questions above.

EXHIBIT 4

Question 3-- Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

Subsection (g) of A.C.A. § 6-18-206 provides that: "[t]he state board shall be authorized to resolve disputes arising under subsections (b) – (f) of this section."

In my opinion the State Board of Education does not have authority to determine that a school district "is in compliance with the Arkansas School Choice Act" where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision. *Cf. State Police v. McCall*, 98 A.D.2d 921, 470 N.Y.S.2d 916 (1983) ("State Human Rights Appeal Board" (a state administrative agency), did not exceed its jurisdiction in construing federal district court order, but only because its decision was supported by other documentary proof and board did not base its decision solely on an interpretation of federal court order).

Disputes involving construction of federal court orders are properly left to the parties thereto, and their respective counsels, or if necessary, to the issuing court itself.

Deputy Attorney General Elana C. Wills prepared the foregoing opinion, which I hereby approve.

Sincerely,

MIKE BEEBE
Attorney General

MB:ECW/cyh

EXHIBIT 4

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 18, 2014, 6:00 P.M.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday, March 18, 2014, 6:00 P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Johnny Brown, Stacey Modisette, Tonya Clark, and Frank Herrera.

President Lindsay Nutt called the meeting to order.

Ms. Stacey Modisette made a motion to approve the February 18, 2014 Regular Board minutes. Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Johnny Brown made a motion to approve the monthly financial obligations. Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0.

Ms. Stacey Modisette made a motion to accept the 2014-2015 Licensed Personnel Salary Schedule as presented. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

Mr. Brad Lloyd made a motion to approve the deletion of fixed assets as presented. Mr. Johnny Brown seconded the motion. Motion passed. Vote 6-0.

A record of production payments received from Weiser Brown Operation Company was presented for board review for informational purposes only.

Ms. Stacey Modisette made a motion to accept the 2014-2015 Calendar for LCSD. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Keith presented information from Strategos International regarding professional development and safety training for the 2014-2015 school year. Mr. Brad Lloyd made a motion to have this company provide the necessary professional development and training for the 2014-2015 school year. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Keith presented a resolution for Lafayette County School District to opt out of participation in the Public School Choice Act of 2013. Mr. Brad Lloyd made a motion to approve the Resolution stating that Lafayette County School District shall not participate in public school choice as defined by Ark. Code Ann. $$ 6-18-1901, et seq. Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0.

Mr. Keith gave an update of the facilities stating that a dishwasher is needing to be replaced in the High School Cafeteria. Bids are currently being accepted. Mr. Johnny Brown made a motion to let Mr. Keith handle this situation as necessary. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 5

The Board entered Executive Session. The Board re-entered Open Session.

Ms. Stacey Modisette made a motion to approve additional duties for Bobby Clark-Girls track coach. Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0

Mr. Johnny Brown made a motion to hire Administrative staff:

- Opal Anderson, High School Principal
- Betsy Griffin, Elementary Principal
- David Downs, Asst Principal/Dean
- Cheryl McMahen, Asst Elem. Principal
- Janet Walker, Federal Programs Coordinator

Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0

Ms. Tonya Clark made a motion to accept the resignation of Robert Haworth, Social Studies teacher. Mr. Johnny Brown seconded the motion. Motion passed. Vote 6-0

Mr. Brad Lloyd made a motion to accept the resignation of Joyce Smith and Michael Hamilton, High School Custodians. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0

There being no further business. Mr. Brad Lloyd made the motion to adjourn. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0

Lindsay Nutt
President

Stacey Modisette
Secretary

EXHIBIT 5

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 6

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 6

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 6

ASSOCIATED DOCUMENTS

Rejected mailed 5-6-15

APPLICATION FOR TRANSFER TO A NON-RESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"

(Must be submitted to Non-Resident Districts)

APPLICANT INFORMATION

Applicant Name [redacted] Wheelington

Date and Time Received by Non-Resident District: 8:00 4-26-15

Date of Birth [redacted]

Gender Male ☑ Female ☐

GRADE

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races	☐				
African American	☐	Asian	☐	Hispanic	☐
Native American/ Native Alaskan	☐	Native Hawaiian/ Pacific Islander	☐	White	☑

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name Lafayette County High School County Name Lafayette County

Address P.O. Box 950 Lewisville, AR 71845

Phone 870-533-4464

NON-RESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name Taylor High School County Name Lafayette

Address 506 E Pine Street Taylor, AR 71861

Phone 870-694-2251

Does the applicant already have a sibling or step-sibling in attendance in this district? NO

PARENT OR GUARDIAN INFORMATION OF APPLICANT

Name Michelle Wheelington Home Phone [redacted]

Address [redacted] Work Phone [redacted]

Stamps, AR 71860

Parent/Guardian Signature Michelle Wheelington Date 4-23-15

Pursuant to standards adopted by a non-resident school board a non-resident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. A school district receiving transfers under the School Choice Act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion or disability. However, a non-resident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Act 560 of 2015 (Public School Choice Act). Priority will be given to applicants with siblings or step-siblings attending the district. The non-resident district shall accept credits toward graduation that were awarded by another district and award a diploma to a non-resident applicant if the applicant meets the non-resident district's graduation requirements. This application must be filed in the non-resident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the non-resident district. Any district receiving this application must retain it in its district records for at least one (1) year from the date it is received, for data verification and general recordkeeping purposes.

DISTRICT USE ONLY

Application Accepted ☐ Rejected ☑

Date Notification Sent to Parent/Guardian of Applicant 5-6-15

Date Notification Sent to Resident District 5-21-15

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Gary Hines, Superintendent

506 E. Pine St.
Taylor, AR 71861

May 6, 2015

Michelle Wheelington
1520 Nevada 3
Stamps, AR 71860

Dear Michelle:

I regret to inform you that your application for C[redacted] Wheelington to attend Taylor Schools for the 2015-2016 school year under the "Arkansas Public School Choice Act of 2015" has been rejected. The reason for the rejection is as follows:

You are a resident of the Lafayette County School District. According to the Arkansas Department of Education, LCSD has opted out of the Arkansas Public School Choice Act. You can find this information on the ADE's website at www.arkansased.org. Click on the "school choice" link under the Educational Options heading.

You have the right to appeal this decision to the Arkansas State Board of Education. For more information contact the Office of the Commissioner at 501-682-4203.

Sincerely,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.*e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

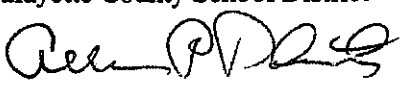
In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District



Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72014
LASER, SHARP, MAYES, WILSON, BUFFORD
& WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP,

on _____ by _____

SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection and applies for a school choice transfer under § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(3) A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under subdivision (c)(2) of this section may complete all remaining school years at the nonresident district.

SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to read as follows:

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district ~~with a copy to~~ ,which shall notify the resident district of the filing of the application;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) A nonresident district that receives an application under subsection (a) of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

(c) A nonresident district shall review and make a determination on each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

1 ~~subsection is irrevocable for one (1) year from the date the school district~~
2 ~~notifies the Department of Education of the declaration of exemption.~~
3 ~~(B) After each year of exemption, the board of directors~~
4 ~~may elect to participate in public school choice under this section if the~~
5 ~~school district's participation does not conflict with the school district's~~
6 ~~federal court-ordered desegregation program.~~
7 ~~(3) A school district shall notify the department by April 1 if~~
8 ~~in the next school year the school district intends to:~~
9 ~~(A) Declare an exemption under this section; or~~
10 ~~(B) Resume participation after a period of exemption.~~
11 ~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit
12 on school choice transfers each school year from a school district, less any
13 school choice transfers into the school district, under this section of not
14 *more than three percent (3%) of the* ~~*school district's three-quarter average*~~
15 ~~*daily membership for the*~~ *enrollment that exists in the school district as of*
16 *October 15 of the immediately preceding school year.*
17 (B) For the purpose of determining the percentage of school
18 choice transfers under this subsection, siblings who are counted in the
19 numerator as transfer students shall count as one (1) student~~, and siblings~~
20 ~~who are counted in the denominator as part of the average daily membership~~
21 ~~shall count as one (1) student~~.
22 (C) A student eligible to transfer to a nonresident
23 district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count
24 against the cap of three percent (3%) of the resident or nonresident
25 district.
26 (2) Annually by ~~June 1~~ *December 15*, the department shall report
27 to each school district the net maximum number of school choice transfers for
28 the ~~current~~ next school year.
29 (3) If a student is unable to transfer due to the limits under
30 this subsection, the resident district shall give the student priority for a
31 transfer in the ~~following~~ first school year in which the district is no
32 longer subject to subdivision § (b)(1) of this section in the order that the
33 resident district receives notices of applications under § 6-18-1905, as
34 evidenced by a notation made by the district on the applications indicating
35 date and time of receipt.
36

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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A.C.A. § 6-18-1901

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A.C.A. § 6-18-1901

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1902

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Title 6 Education
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Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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Title 6 Education
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A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY				
Date and Time Received by Resident District:			Date and Time Received by Nonresident District:	
Resident District LEA #:			Nonresident District LEA#:	
Student's State Identification #:				
Application	Accepted		Rejected	
Reason for Rejection (If Applicable):				
Date Notification Sent to Parent/Guardian of Applicant:				
Date Notification Sent to Resident District :				

ROBERT A. WATSON
104 Timber Hills Drive
El Dorado, Arkansas 71730
(870) 862-4604
Email: Lvoris@esd-15.org

December 16, 2011

Allen P. Roberts
Allen P. Roberts, P.A.
325 Jefferson Street
Camden, AR 71701

Dear Mr. Roberts:

I am Bob Watson. I am responding to your request that I write a report stating my opinions and observations about the impact of the racial restriction in the Arkansas School Choice Act of 1989 on El Dorado School District and other similarly situated districts in South Arkansas. You also asked that I opine on what the effect would be on those districts of free and unrestricted school choice without the existing racial restriction. I have attached as Exhibit 1 to this letter a summary of my educational and employment history.

I have attached as Exhibit 2 to this letter is a racial/enrollment chart of our part of Union County. This chart shows El Dorado to be a fifty percent black district of some 4,581 students. It is joined by three districts — Smackover, Norphlet, and Parkers Chapel — that all have a smaller total enrollment with a smaller percentage black enrollment than El Dorado. The relative racial composition of these four school districts as depicted in Exhibit 2 has existed throughout my administration at El Dorado.

It is my opinion and observation that El Dorado School District offers educational, extracurricular, and college scholarship opportunities to its students that are substantially superior to those offered by its neighboring three school districts. I respectfully submit that this conclusion is

PULASKI COUNTY SPECIAL SCHOOL DISTRICT

925 East Dixon Road/P.O. Box 8601
Little Rock, Arkansas 72216-8601

July 24, 2015

Ms. Whitney Moore
Fuqua Campbell P.A.
Riviera Towers
3700 Cantrell Road, Suite 205
Little Rock, Arkansas 72202

Dear Ms. Moore:

At your request, I have read Bob Watson's report dated December 16, 2011, and my report of December 13, 2011, and addendum of January 23, 2012, copies of which are attached. I believe these documents remain a true and correct description of the situation that exists today in southern Arkansas. Any school district with a substantial black enrollment bordered by a school district or districts with an enrollment that is substantially white will suffer rapid re-segregation due to white flight if it participates in school choice. This is illustrated by what happened in the Malvern School District with a black enrollment of *circa* 35% in 2013-14 and 2014-15 when it participated in school choice. According to ADE statistics, the total transfers out of Malvern in 2013-14, substantially all to surrounding "white" districts, were 118, only one of whom was black. In 2014-15 the total number transferring out of Malvern was 109, only two of whom were black. To summarize this, under school choice there was a substantial movement of white students out of the Malvern district to predominantly white surrounding districts.

I understand this letter will be presented to the Arkansas State Board of Education to support denying school choice appeals by white parents seeking school choice transfers out of the Lafayette County School District into either Emerson-Taylor-Bradley school district or Spring Hill School District.

Sincerely,

Dr. Jerry Guess
Superintendent of Schools

PULASKI COUNTY SPECIAL SCHOOL DISTRICT
Office of the Superintendent

December 13, 2011

Mr. Allen P. Roberts
325 Jefferson
P.O. Box 280
Camden, AR 71711

Dear Mr. Roberts:

I'm Jerry Guess and am authoring this report in response to your request that I express my opinion on this question: What would be the impact on the racial composition of public school districts in Ouachita County, Arkansas, specifically, as well as south central Arkansas generally, of free and unrestricted school choice? A recent resume' of mine is attached as a *curriculum vitae.* This school year is my first as superintendent of Pulaski County Special School District. I spent the thirteen years immediately proceeding this year as superintendent of Camden Fairview School District. The basis of the opinion stated herein is my experience in public education, particularly as the superintendent of a south Arkansas school district.

It is my opinion that free and unrestricted school choice would result in rapid and complete segregation of public education in Ouachita County. That is because there are multiple districts in greater Ouachita County of varying racial composition. My experience has taught me that the racial composition of a school or school district is overwhelmingly the most important factor to most white parents in selecting a school for their children: The "whiter" the school or district the more effort and energy white parents will expend to get their children into the "whiter" district and out of the "blacker" districts. My experience has also taught me that racial composition is *not* usually a factor in school or district selection for most black parents. Explaining this phenomenon is beyond both my expertise and the scope of this report. What I do know is that these observations have been universally true for my entire experience in public education.

I've also learned from experience that there is another factor in the equation. Public school districts are "size- competitive." I honestly believe that 100% of school superintendents would choose to have their district growing and expanding rather than shrinking or even stagnant. Of course, there are multiple components of this phenomenon. Two of the most obvious are that public school financing is generally based on a *per capita* approach; and that enrollment growth is generally considered a sign of administrative success. Whatever the explanation, I believe the observation has a universality that makes it tantamount to a truth. When you add this phenomena to the racial preference observations expressed above, the conclusion of white flight is inevitable.

925 East Dixon Road ◇ Little Rock, Arkansas 72206
Phone: (501) 234.2001 ◇ Fax: (501) 490-0483 ◇ Email: jguess@pcssd.org

There are five school districts with substantial territory in Ouachita County: Camden Fairview, Bearden, Harmony Grove, Smackover, and Stephens. The present racial demographics of these districts are shown is Exhibit A.

It is my opinion that removing residence and race as restrictions on Ouachita County school attendance would result in Camden Fairview and Stephens becoming virtually all black due to their remaining students "choicing" out to Harmony Grove and Smackover. The immediate impact would be substantial. The only reason this would not happen immediately for Camden Fairview and Stephens is that it might take some time for Harmony Grove and Smackover to expand their personnel and facilities to accommodate all the white children desiring to attend.

I believe the same result would occur between Bearden and Harmony Grove with the only difference being that it would take longer, *e.g.,* four or five years as opposed to one or two years. This is because the black enrollment of Bearden is *only* 41%. However, as stated above, my experience has been that there is no specific black percentage enrollment that leads to "white flight." Rather it is that there is a "whiter" district nearby. To me this point is illustrated by the present litigation involving as it does white student residents of Malvern School District seeking to leave Malvern for a nearby district. The last time I checked Malvern had a black enrollment of about 31%. My point is this: Malvern would be a "white flight" district if it were situated next door to Camden Fairview with 61% black enrollment or El Dorado with a 50% black enrollment. It is not the number of blacks attending Malvern; it is solely the availability of a nearby "whiter" alternative.

Finally, I believe that Ouachita County is in no way unique among surrounding south central Arkansas counties. The counties and school districts with which I am most familiar are virtually identical to Ouachita County in the factors discussed. They are Union, Columbia, and Hempstead. Each county now has a total population with blacks and whites about evenly divided. Each county has one centrally located "county seat" school district (*i.e.,* Camden Fairview, El Dorado, Magnolia, and Hope school districts). See Exhibit B. Each of these "county seat" districts historically operated a racially dual system which was desegregated in the early 1970s by closing the black system and merging its enrollment with the white students. Finally, each of the four counties has one or more smaller and whiter districts located near the blacker county seat district.

In my opinion, free and unrestricted school choice would rapidly result in each of these counties having a racially segregated public education system. Furthermore, I believe this combination of demographics and school district organization predominates across the span of south Arkansas. It is my opinion that wherever that combination occurs free and unrestricted school choice would result in racially segregated public education.

Regards,

Jerry D. Guess
Superintendent of Schools

JERRY D. GUESS

178 Gray Fawn Trail
Camden, Arkansas 71701
870-837-2575 – home
870-818-7442 – cell

Education

Ed. D.,	1997, University of Arkansas at Little Rock, Little Rock, AR Dissertation: *Desegregation Through Consolidation: A Historical Case Study of the Formation of the Camden Fairview School District*
M.Ed.,	1989, University of Arkansas, Fayetteville, AR Educational Administration
B.A.,	1973, Southern State College, Magnolia, AR English major, history minor
Diploma	1969, Chidester High School, Chidester, AR

Professional Experience

Superintendent, Pulaski County Special School District (PCSSD) (2011-Present)

Superintendent, Camden Fairview School District (CFSD) (1996-2011)

Associate Superintendent, CFSD, (1994-1996)

- Curriculum and Instruction Director K-12
- Coordinator of staff development, technology program, early childhood programs, and special programs
- Acting Personnel director (1994)

Assistant Superintendent, CFSD (1992-1994)

- Developed desegregation program and budget
- Assisted superintendent and board of education in annexation of Camden School District to Fairview School District
- Special Education and Gifted /Talented Program Oversight
- Compensatory Education Coordinator
- Grant writer, K-12

Principal, Fairview Middle School, Fairview School District (FSD) (1990-1992)

- Supervised and evaluated all staff members regarding continued employment and performance improvement
- Responsible for coordination and refinement of mathematics and language curriculum

- Developed and implemented comprehensive rewards and incentives

Assistant Principal, Fairview Middle School, FSD (1986-1990)

- Responsible for discipline, attendance, home-school relations
- Coordinated textbook selections and purchases for all curricular areas
- Chaired in-service, teacher center and six-year plan committees
- Assisted superintendent and board of education in consolidation of Chidester School District and Fairview School District

Gifted and Talented Coordinator, FSD (1985-1990)

- Conducted district-wide needs assessment
- Designed and implemented gifted and talented identification and service models for K-12
- Initiated and implemented ADE-sponsored Academic Enrichment for Gifted in Summer (AEGIS) program, Engineering, Management Exploration, serving 30 residential students for two weeks

Classroom Teacher, Fairview High School, FSD (1978-1986)

- Taught language arts, 10,11, and 12, yearbook and newspaper
- Public relations coordinator for the school district
- Organized, developed, and taught honors creative writing class
- FHS Teacher of the Year, 1984

Professional Organizations and Accomplishments

- Member and President (2010-11), Arkansas Association of School Administrators
- Member and Vice-President (2011-12), Arkansas Association of Supervision and Curriculum Development
- Member, Arkansas Professional Licensure Standards Board
- Arkansas Superintendent of the Year, 2008
- Member and President, Board of Trustees, Southern Arkansas University
- Chair, Southern Arkansas University Presidential Search Committee
- Member, National Association of Supervision and Curriculum Development
- Member, National Organization for Legal Problems in Education
- Member, Board of Directors, and presenter, Arkansans for Gifted and Talented Education
- Member, Board of Directors, and presenter, Arkansas Association of Middle Level Educators
- Member and Board of Directors, Environmental and Spatial Technologies Initiative

- Member and Board of Directors, Arkansas Association of School Administrators
- Member, Phi Kappa Phi.

Selected Community Activities and Honors

- Member and Board of Directors, Camden Area Chamber of Commerce
- Member and Board of Directors, Ouachita County Farm Bureau
- Member and past president, Camden Kiwanis Club
- Member and Board of Directors, Ouachita Partnership for Economic Development, Inc.
- Meritorious Service Award 2002, SAU-Tech
- Community Service Award 2001, Camden Area Chamber of Commerce
- Member and Board of Directors, People Are Concerned

References

Available upon request

EXHIBIT A

SCHOOL DISTRICT	2011-12 ENROLLMENT	BLACK (%)	NON-BLACK (%)
Camden Fairview	2,425	1,481 (61%)	944 (39%)
Harmony Grove	1,036	230 (22%)	806 (78%)
Smackover	822	187 (28%)	635 (77%)
Bearden	572	234 (41%)	338 (59%)
Stephens	326	279 (86%)	47 (14%)

"Statewide Information System Reports: Enrollment." *ADE Data Center*. 8 December 2011. Arkansas Department of Education. 12 December 2011. <http://adedata.arkansas.gov/statewide/Districts/Enrollment.aspx>

EXHIBIT B

AREA	POPULATION/ ENROLLMENT	BLACK (%)	NON-BLACK (%)
Union County	41,639*	13,721 (33%)	27,918(67%)
El Dorado S.D.	4,581**	2,309 (50%)	2,272 (50%)
Columbia County	24,552*	9,059 (37%)	15,493 (63%)
Magnolia S.D.	2,728**	1,460 (54%)	1,268 (46%)
Hempstead County	22,609*	6,646 (29%)	15,963 (71%)
Hope S.D.	2,460**	1,153 (47%)	1,307 (53%)

* "2010 Census Interactive Population Search." *United States Census 2010.* 26 May 2011. U.S. Census Bureau. 12 December 2011. <http://2010.census.gov/2010census/popmap/ipmtext.php?fl=05>

** "Statewide Information System Reports: Enrollment." *ADE Data Center*. 8 December 2011. Arkansas Department of Education. 12 December 2011. <http://adedata.arkansas.gov/statewide/Districts/Enrollment.aspx>

JERRY D. GUESS

178 Gray Fawn Trail
Camden, Arkansas 71701
870-837-2575 - home
870-818-7442 – cell

January 23, 2012

Mr. Allen P. Roberts
325 Jefferson Street
P.O. Box 280
Camden, AR 71711

Dear Mr. Roberts;

You asked me to prepare an addendum to my previous report dated December 13, 2011, if I could accurately discuss the history of desegregation in Arkansas from 1954 to 1970. I believe I can, and that discussion, including the basis for my statements, follows.

I wrote my doctoral dissertation on desegregation in Ouachita County, Arkansas public schools. In preparing and writing that dissertation I studied and became familiar with the history of desegregation of public education in Arkansas generally, and south Arkansas in particular. I also "lived" most of the experience graduating from Chidester High School (Ouachita County) in 1969. I was born in 1950, and raised and educated in the public schools of Ouachita County. I am a public school teacher and administrator by profession and experience. Most of my professional employment has been in Ouachita County public schools beginning in 1978. My *curriculum vitae* is attached to my earlier report submitted herein.

In addition to my doctoral studies, I also accumulated knowledge used to state the facts, opinions, and conclusions contained herein by preparing and testifying on desegregation before various *ad hoc* and standing groups of Arkansas legislators and other groups over the past ten years. That work was virtually always done jointly in concert with my colleague, the superintendent of El Dorado School District, Robert Watson. This collaboration armed me with an even better knowledge of the desegregation history of El Dorado School District than I had acquired in my studies and personal experience. All of this together enables me to state that the desegregation history of Chidester, Camden, Fairview, and El Dorado school districts, *circa* 1954-1971, is virtually identical.

At the time of *Brown v. Board of Education,* all four of the districts mentioned operated two school systems, one for blacks and one for whites. It would be more accurate, because of the multiple classifications of race and ethnicity used today, to say that these districts operated two separate education systems, one for non-blacks and the other for blacks. I say this because all ethnic identifications except black, *e.g.,* white, oriental, Hispanic, American Indian, *etc.,* went to the "white" schools, while all children with any black ancestry were relegated to the black schools.

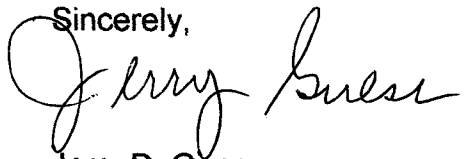
Desegregation under *Brown* began in the last half of the 1950s motivated by both court litigation and administrative intervention through the federal Health, Education, and Welfare Department (HEW). Fairview, Chidester, Camden, and El Dorado all operated in these early years under court or agency approved "freedom-of-choice" desegregation plans. Under these arrangements both the white (non-black) schools and the black schools remained open, but with the districts ordered to permit students to attend either, regardless of race. No meaningful desegregation occurred under freedom-of-choice. I believe without exception *all* non-black (white) students continued to attend the white schools, while substantially all black children continued to attend the "black" schools. This remained the case until 1969 when HEW decided it would no longer approve federal funding for school districts with freedom-of-choice desegregation plans. This left the four school districts under discussion with virtually no choice for 1969-70 and beyond. Each immediately closed its "black schools" and merged its black and non-black student bodies in the former "white schools."[1]

Camden High School in the Camden School District was typical of the four districts under freedom-of-choice. My research indicates that 1965 was the first year of any desegregation, which was by freedom-of-choice. In 1965 only five black children attended the "white" schools, all at Camden High School with a total enrollment of *circa* 700. Though some new children came and some graduated, the total black enrollment at CHS remained at four to six students until *circa* 1969. The eighth grade class in the black school had no whites, and the eighth grade class in the white school had no blacks. Camden School District merged these two eighth classes into the entering ninth grade class at existing Camden High School in 1969. After the 1969 HEW order a new high school facility was completed and all high school grades, as well as all the elementary grades, were merged in 1970.

Camden, Chidester, Fairview, and El Dorado school districts shared the above-described 1954-71 desegregation history. It is my opinion that this history was identical to that of virtually all other similarly situated south and central Arkansas school districts.

Please let me know if there are questions.

Sincerely,



Jerry D. Guess

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[1] Camden actually sought and received a partial time-waiver from HEW of the order to "immediately" merge the student bodies because a new high school facility large enough to accommodate both white and black enrollments was already under construction. Therefore, the total black/white merger occurred in Camden in 1970, rather than 1969 as it did for Chidester, El Dorado, and Fairview.

supported by every objective standard by which one could test such a conclusion. I am also attaching as Exhibit 3 to this letter an itemization of El Dorado's academic, extracurricular, and scholarship offerings that support the conclusion of excellence that I have just advanced.

Even a cursory examination of this exhibit also clearly establishes that I would be incorrect if I advanced this bold assertion as the product of my administrative abilities. It is not, and I am just the person lucky enough to have been on board when the corporate citizens and patrons of this district, together with the people employed by the district, past, present, and future, pushed this district to the position of excellence it now enjoys.

I am have been superintendent of schools for the El Dorado School District since 1985. Before that I was the principal of El Dorado High School and also taught and held other administrative positions in the district. During that period of time, I have dealt personally with requests from parents residing in El Dorado to permit their children to attend school in another district. These requests include requests for transfers under the Arkansas School Choice Act of 1989, as well as arguments to me as to why El Dorado should permit a white student to move to another district even though that movement would not be permissible under our existing school choice statute. El Dorado is now, and throughout this period of time has been, under a desegregation court order. In that regard, I have been since 1985 the primary spokesman for the district in all its dealings with the Court and with the plaintiff-class of black students and parents, as well as with their attorney, John W. Walker.

Based on my experience referred to above, I have formed opinions and made observations regarding what you asked about. My first observation is that race trumps all other considerations, including quality of education, in Union County among most white parents selecting a school district for their child to attend. As a general rule, white parents will go to great lengths and expend great amounts of energy to send their child to the school with the smallest percentage black enrollment.

This is true now and has been true throughout my twenty-seven years as superintendent. If the School Choice Act of 1989 had not included its racial restriction, it is my opinion that El Dorado would have very quickly lost its white students and become an overwhelmingly black school district. Furthermore, it is my opinion that El Dorado could not hold its white students today were it not for the residence and racial restrictions in Arkansas' attendance laws. But for those restrictions, I believe white students in El Dorado would very quickly move to Parkers Chapel, Smackover, and Norphlet.

Finally, it is my opinion that the same situation I have described exists today in every area of Arkansas that has (1) a substantial black population; (2) and multiple school districts; (3) that are in close proximity to one another; (4) and that are racially identifiable. In other words, this is the same situation that exists all over South Arkansas. It is my belief that removal of the residence and racial restrictions from Arkansas' school attendance laws would rapidly result in segregated public education in South Arkansas very similar, if not identical, to what existed through the 1960s.

Sincerely,

/s/ *Robert A. Watson*

Robert A. Watson

ROBERT A. WATSON
104 Timber Hills Drive
El Dorado, Arkansas 71730
(870) 862-4604
Email: Lvoris@esd-15.org

Education:

Administrator Certification, University of Arkansas, Fayetteville, Arkansas (1982)
M.A., Louisiana Tech University, Ruston, Louisiana (1969, Speech)
B.A., Louisiana Tech University, Ruston, Louisiana (1968, Speech Education)
Diploma, Logan High School, Logan, West Virginia (1963)

Professional Experience:

Superintendent of Schools, El Dorado School District (1985-Present)

Principal, El Dorado High School, El Dorado School District (1980-1985)

Principal, Barton Junior High School, El Dorado School District (1975-1980)

Assistant Principal, El Dorado High School, El Dorado School District (1974-1975)

Dean of Students, Man High School, Logan County School District, Logan, West Virginia (1973-1974)

Classroom teacher and coach, Man High School, Logan, West Virginia (1971-1973)

Classroom teacher, Man High School, Logan, West Virginia (1969-1973)

Professional Organizations and Accomplishments

Member and President (1999-2001) Arkansas Association of School Administrators

Arkansas Superintendent of the Year, 2001

Member and President (1998-2001) of Economics Arkansas, current board member

Member of the State and Public School Life and Health Insurance Board (2007-2011)

Community Activities and Honors

Member and Board of Directors (2007-2009), El Dorado Chamber of Commerce

Member and Past President (1986-1987), Rotary Club

Paul Harris Fellow – The Rotary Foundation of Rotary International

References

Available upon request.

EXHIBIT 2

School District	2011-2012 Enrollment	Black	Non-black
El Dorado	4,581	2,309 (50.4%)	2,272 (49.6%)
Smackover	822	187 (22.7%)	635 (77.3%)
Parkers Chapel	650	67 (10.3%)	583 (89.7%)
Norphlet	414	93 (22.5%)	321 (77.5%)

"Statewide Information System Reports: Enrollment." *ADE Data Center.* 8 December 2011. Arkansas Department of Education. 12 December 2011. <http://adedata.arkansas.gov/statewide/Districts/Enrollment.aspx>

El Dorado School District

200 West Oak Street
El Dorado, Arkansas 71730
870.864.5001
www.eldoradopublicschools.com
www.eldoradopromise.com

Mission

All students in El Dorado School District will become proficient or advanced in all disciplines in a safe learning environment.

Schools

ESD has 8 campuses with 5 elementary focus schools, 1 middle school, 1 junior high, and 1 high school.

- Hugh Goodwin Academy for the Arts (K-4)
- Northwest Environmental Studies Academy (K-4)
- Retta Brown Communication & Technology (K-4)
- Union Academy of Health & Wellness (K-6)
- Yocum Academy for Math & Science (K-4)
- Washington Middle School for Arts & Sciences (5-6)
- Barton Junior High School (7-8)
- El Dorado High School (9-12)

Highlights & Recognitions

- Free college tuition for El Dorado High graduates
- Endowed Chairs in Math, Science, Foreign Language, and Literacy for K-12 curriculum alignment
- El Dorado High chosen in first 10 high schools to receive Arkansas Advanced Initiative for Math & Science (AAIMS) Advanced Placement grant sponsored by Exxon-Mobil
- El Dorado High "Academic Signing Day" featured in *People Magazine*
- College Board Honor Roll of Outstanding AP Programs 2010-2011
- El Dorado High state finalist for Teacher of the year featured in *Southern Living Magazine*
- Barton Junior High "Top Ten Junior High Schools Consistently High-Performing" by National Center for Educational Accountability
- El Dorado High Southern Regional Education Board (SREB) featured school in *Rigor, Relevance & Relationships Improve Achievement*
- Barton Junior High recognized as "Best Practices" high-performing middle school
- Barton Junior High recognized as Top Performing School in Literacy & Math by National Center for Educational Achievement *2009-2010 & 2010-2011*
- Jacob Javits Foundation used district as a model for statewide Gifted evaluation program
- District & staff recognized with Challenger Award by Arkansans for Gifted & Talented Education
- Magna Award from American School Boards Association 2009 & 2011
- ERI Golden Apple Award for outstanding Direct Instruction in all elementary schools
- 2010 Consolidated School *Health Healthy School Board Gold Award*
- 2010 Pride Team of the Year

Community Support

- El Dorado Promise from Murphy Oil for 5-years of college tuition for all El Dorado high graduates
- El Dorado Education Foundation
  - Sponsor Endowed Chairs Program
  - Teacher Grants for unique projects
  - Teacher Excellence Awards
- Murphy Education Program
  - Cash Awards for student scores on Advanced Placement, ACT, SAT, & Benchmark Exams
  - Cash Awards for Advanced Placement teachers
  - Academic Letter Jackets
- Murphy Foundation has given 700 scholarships
- Union County Community Foundation annually gives over 20 scholarships to El Dorado High students
- First Financial Bank – student & teacher support
- Simmons First Bank – student & teacher support
- Share Foundation
  - Sponsor Pride Youth Program
  - Coordinated School Health

Student Opportunities & Achievements

- 4,650 students district-wide
- Student interest focus in all elementary schools
- 19 Advanced Placement courses
  - $9,300 cash awards from AAIMS for student AP scores
  - Recognized by College Board as one of two high schools in Ark. For increased AP scores
    - 19 AP Scholars
    - 3 AP Scholars with Distinction
    - 4 AP Scholars with Honors
    - 2 National AP Scholars
- 7 Concurrent Credit courses
- Pre-AP courses in all core areas beginning 5th grade
- Gifted Program in all schools
  - Odyssey of the Mind, Quiz Bowl, unique field trips, Duke Talent Search
- Over $1.18 million dollars in academic scholarships for 2009
- Murphy Education student awards for various test scores
- ACT Support Center – free ACT preparation for all 9-12 students
- Athletic Program
  - 7-12 baseball, basketball, cross country, football, golf, soccer, swimming, tennis, track, volleyball

- AAAAAA South Athletic Conference
- Excellent athletic facilities
- State Champs 2009-10 Football & Girls Golf
- State Champs 2010-2011 Football, Girls Basketball, Golf

- Outstanding Fine Arts Programs
- Regional & State Science & Math awards
- Special Instructional Programs
  - Bridge to College Algebra, Waiting to Excel,
  - Accelerated Academies
- CHAMPS, PRIDE, FBLA, FCCLA, Young Republicans, Young Democrats, Student Counsel, and many other clubs

Staff Highlights & Recognitions

- Over 400 certified staff
- 200 staff have advanced degrees
- 5 National Board certified teachers
- 70 Advanced Placement/Pre-AP certified staff
- 50 Laying the Foundation certified staff
- 11 GT certified staff
- Toyota Tapestry Excellence in Science Teaching Award
- National Association of Biology Teachers "Outstanding Biology Teacher of the Year"
- 1st Butler Center for Arkansas Studies Fellow
- Bessie B. Moore Excellence in Teaching Economics Award
- Robert Rauschenberg Foundation Power of Art Award
- Blue Bell Ice Cream Arkansas Regional Teacher of the Year
- 2009 Arkansas Teacher of the Year finalist
- Top Ten Finalist in Shell National Science Teacher Award
- Staff chosen for Eisenhower People to People Literacy Team for South Africa educational tour
- Arkansas Newspaper in Education Teacher of the Year
- Wal-Mart Teacher of the Year (multiple times)
- Arkansas Superintendent of the Year
- ERI Principal of the Year
- AAEA/AACIA Administrator of the Year 2010

Fine Arts Program

- A+ School Network designation
- Music & visual arts instruction in all elementary schools
- Band grades 5-12 and Concert, Jazz, & Marching Band 9-12
- Orchestra grades 5-12
- Vocal music – various choirs, ensembles & madrigal groups 5-12
- Visual Arts
  - Watercolor, oils, ceramics
  - Advanced Placement Drawing, 2-D & 3-D Art
  - Artists in Education through South Arkansas Arts Center
  - Master in Fine Arts instructor
- Performing Arts
  - Drama grades 5 – 12, Dance, Specialized music classes
- Thespian Troupe regularly performs at American Theater Festival in Edinburgh Fringe Festival, Edinburgh, Scotland
- Thea Foundation Scholarship students
- South Arkansas Symphony partnership
- AP Music Theory

Technology

- 2 to 1 student to computer ratio
- All schools networked
- E-Labs, X-Labs, E.A.S.T. Lab
- Smartboards, TI Navigator, Interwrite, Quizdom, graphing calculators, Mac Labs, iPods, cameras, Compass Odyssey, A+

Partnerships

- El Dorado Education Foundation
- A+ Schools Network
- Arkansas Council on Economics Education
- Economics Arkansas
- Boys & Girls Club
- South Arkansas Arts Center
- South Arkansas Community College
- El Dorado Chamber of Commerce
- El Dorado Education Foundation
- Healthworks Fitness Center
- South Arkansas Symphony Orchestra
- Arkansas Museum of Natural Resources
- Murphy Oil Corporation
- Murphy Foundation
- Murphy Education Program
- Cyber Innovation Center
- Share Foundation
- Simmons First Bank
- First Financial Bank

Accreditation

ESD is fully accredited by the Arkansas Department of Education. El Dorado High is also accredited by North Central Association.

HEARING PROCEDURES

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

June 3, 2015

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

Joseph and Sharon Black
[redacted]
Stamps, AR 71860

Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Gary Hines, Superintendent
Emerson-Taylor-Bradley Sch. Dist.
506 E. Pine Street
Taylor, AR 71861

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is tentatively scheduled to hear the above-referenced appeal(s) on **Thursday, July 9, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on June 19, 2015**.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

/signed/

Jeremy C. Lasiter
General Counsel

cc: Mr. Johnny Key, Commissioner of Education
Ms. Annette Barnes, Asst. Commissioner, Public School Accountability
State Board of Education Office

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

RECEIVED
COMMISSIONER'S OFFICE

MAY 21 2015

DEPARTMENT OF EDUCATION

May 15, 2015

To Whom It May Concern,

I am writing this letter in regard to our request being denied for my two children to attend the Emerson-Taylor-Bradley School District for the upcoming school term 2015-2016. My husband and I currently live in the Lafayette County School District and our twin daughters have been attending the districts' elementary.

With the upcoming school year approaching, they will be entering 7th grade. The Lafayette County High School is comprised of 7th through 12th grade. We, as parents, are concerned with their safety and well-being at the high school. We are concerned with cultural differences that are known to be present which causes discipline and academic issues. Safety is our number one concern. We strive to raise our girls to accept differences in other people; however, when these differences interfere with their learning and safety we realize that we need to stand up for them and improve their environment. We want them to feel safe at school so they can continue to excel in their learning.

All we are asking is that you reconsider our original request. We want to have the choice as to where they begin their high school experience. We would like for our daughters to attend the Emerson-Taylor-Bradley School District next school year 2015-2016.

If you would like to discuss this issue any further, please contact us at (870) 904-1259.

Sincerely,

Joseph and Sharon L. Black

RECEIVED
ATTORNEY'S OFFICE

MAY 21 2015

DEPARTMENT OF EDUCATION
GENERAL DIVISION

Black
[redacted]
Stamps, AR 71860

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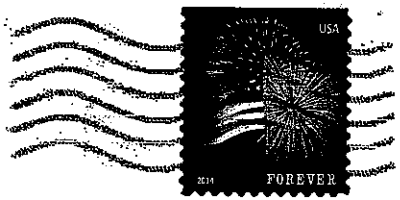

ATTN:
Arkansas Public
School Choice
Act Appeal

Office of the Commissioner
Four Capitol Mall
Room 304-A Mall
Little Rock, AR 72201

72201101304

RESPONSE

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Gary Hines, Superintendent
506 E. Pine St.
Taylor, AR 71861

RECEIVED
COMMISSIONER'S OFFICE

MAY 26 2015

DEPARTMENT OF EDUCATION

May 19, 2015

RECEIVED
ATTORNEY'S OFFICE

MAY 26 2015

DEPARTMENT OF EDUCATION
GENERAL DIVISION

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

Re: Appeals

To Whom It May Concern:

The Emerson-Taylor-Bradley School District has no additional information, evidence or arguments supporting its rejection of the students' applications. The rejection was based solely on the claim of a desegregation order by the Lafayette County School District and its listing on the ADE's website of such. If the State Board of Education determines that the LCSD is not under an enforceable desegregation order, the Emerson-Taylor-Bradley School District will reconsider the school choice applications from those submitted whose resident district is the Lafayette County School District.

Respectfully,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

Cc: Richard & Melinda Morton
Cc: Chad & Marcy Teague
Cc: Brad & Angela Lloyd
Cc: Joseph & Sharon Black
Cc: John & Tiffanie Green

EMERSON-TAYLOR-BRADLEY
SCHOOL DISTRICT
Office of Superintendent
506 E. Pine St.
Taylor, AR 71861

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US POSTAGE

FIRST-CLASS MAIL
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Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

7220110199 9

FUQUA CAMPBELL, P.A.
ATTORNEYS AT LAW

DAVID M. FUQUA
PHIL CAMPBELL
J. BLAKE HENDRIX
ABBIE DECKER RUCKER
PATRICK L. SPIVEY
ERIC R. GRIBBLE*
DEIDRA PARISH**+
WHITNEY F. MOORE
HALEY HEATH BURKS
CHRISTOPHER M. STEVENS
KAYLEN S. LEWIS
SAMUEL C. BABER

* *Also Admitted in Missouri*
** *Also Admitted in Texas*

RIVIERA TOWER
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LITTLE ROCK, ARKANSAS 72202
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Web: www.fc-lawyers.com

ALLEN P. ROBERTS, of Counsel
MIKE MUNNERLYN, of Counsel
JAMES WILLIAM McLEOD, of Counsel +

+ 225 S. MAIN, SUITE 102
JONESBORO, ARKANSAS 72401
870.932.2177

Direct Dial: (501) 975-7122
Email: wmoore@fc-lawyers.com

June 19, 2015

VIA HAND-DELIVERY
Mr. Jeremy Lasiter
Attn: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, Arkansas 72201

Re: Lafayette County School District (Resident District)
Emerson-Taylor-Bradley School District (Non-Resident District)
Public School Choice Act of 2015 Appeals submitted by the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington families

Dear Mr. Lasiter:

Allen Roberts and I represent Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003.

LCSD is the resident district involved in the aforementioned Public School Choice Act of 2015 appeals filed by the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington families, all of whom applied for transfer to Emerson-Taylor-Bradley School District (ETBSD). ETBSD correctly denied all of the transfer requests based on LCSD's declaration of a conflict pursuant to Ark. Code Ann. 6-18-1906(a). In compliance with Ark. Code Ann. 6-13-113(b) and 6-18-1906(a)(2), LCSD has submitted to the Department of Education a copy of the consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div., which is a desegregation court order that conflicts with LCSD's participation in school choice.

Pursuant to your notice of hearing letter dated June 3, 2015, I would like to submit the following materials for consideration at the State Board of Education's July 9, 2015 meeting:

1. The resolution adopted by LCSD's board regarding LCSD's decision not to participate in school choice (**Exhibit 1**).
2. The April 21, 2015 letter from Allen Roberts regarding LCSD's decision not to participate in school choice (**Exhibit 2**).
3. The March 4, 1993 consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div (**Exhibit 3**).
4. Former Attorney General Mike Beebe's September 24, 2003 opinion regarding the State Board of Education's authority to construe court orders (**Exhibit 4**).
5. The March 18, 2014 minutes of the LCSD School Board, noting Brad Lloyd's motion in favor of LCSD not participating in school choice, which passed by a vote of 6-0 (**Exhibit 5**).
6. The March 17, 2015 minutes of the LCSD School Board, noting Brad Lloyd's second of a motion in favor of LCSD not participating in school choice, which passed by a vote of 6-0 (**Exhibit 6**).

The appeals question the validity of the order in *Turner*. There is no indication from the 2015 Act (nor from its predecessor, the Public School Choice act of 2013) that the legislature intended for the State Board of Education to review the propriety of a conflict claimed by a district pursuant to Ark. Code Ann. 6-18-1906(a). There is no provision in the Act that authorizes the Department or the State Board to approve or deny a district's submission. The Act only provides opportunity for a district to claim a conflict and provide the Department of Education with a copy of the conflicting order, which LCSD has done.

An Attorney General's opinion issued in 2003 regarding the School Choice Act of 1989 directly addresses the question of whether the State Board should review and interpret federal court orders. On September 24, 2003, the Attorney General's office wrote to then ADE director, Ray Simon, in Opinion No. 2003-269. Mr. Simon had asked whether or not the State Board of Education had the legal authority to decide whether a district could accept students outside the parameters of the 1989 Act "as long as the district is in compliance with the requirements of the assumed U.S. District Court Order?" (Exhibit 4, p. 2). Attorney General Beebe makes clear in the opinion that the State Board of Education should not seek to interpret federal court orders, stating:

> In my opinion the state Board of Education does not have authority to determine that a school district 'is in compliance with the Arkansas School Choice Act' where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision.

The opinion concludes with the note that disputes involving construction of federal court orders are properly left to the parties themselves, their respective counsels, or if necessary, to the issuing court itself. (Exhibit 4, p. 5).

The *Turner* case was filed by a black staff member and black parents of children attending Lewisville School District. (Exhibit 3, p. 1). Paragraph 4 of the decree specifically references "racial discrimination in . . . student assignment." (Exhibit 3, p. 2). Paragraphs 2 and 3 also address discrimination against students on the basis of race. (Exhibit 3, p. 2). Paragraph 12 requires the desegregation of all classes, programs, and activities offered by the district. (Exhibit 3, p. 5). The consent decree concludes by stating, in paragraph 18, that "the Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." (Exhibit 3, p. 6). As noted by Mr. Roberts in Exhibit 2, the desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (i.e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding. To the best of LCSD's knowledge, this is the last order entered in the case. There are no orders dismissing the case or declaring that LCSD is unitary.

The structure of the Act also strongly suggests that the assertion of a conflict is not appealable because there is no provision in either the Act or the emergency rules that the resident district do anything when the non-resident district denies the application. This logically should mean that appeals are limited to issues such as enrollment caps and capacity issues. The applications were denied solely due to LCSD's conflict, not due to capacity or enrollment caps.

The Act also lacks any provision for the resident district to be heard as a party on appeal. If an appeal of the asserted conflict was contemplated, then party status would have been accorded the resident district. Because it was not, consideration of an appeal on those grounds without providing for party status for the resident district would result in a denial of procedural and substantive due process to the resident district.

The appeals state various reasons why these families would like to leave LCSD and enroll their children in ETBSD. However, none of those reasons override the federal court order presented by LCSD, as permitted by the Act.

For the foregoing reasons, the Black, Gardner, Green, Lloyd, Morton, Teague, and Wheelington appeals should be denied. We appreciate your consideration of this response and request an opportunity to be heard at the hearing.

Respectfully submitted,

Whitney F. Moore and Allen P. Roberts
Attorneys for Lafayette County School District

cc: Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Allen P. Roberts
Allen P. Roberts, P.A.
P.O. Box 280
Camden, AR 71711

Gary Hines, Superintendent
Emerson-Taylor-Bradley School District
506 E. Pine Street
Taylor, AR 71861

Joseph and Sharon Black
1204 Hilltop Drive
Stamps, AR 71860

Jamie Gardner
176 Lafayette 27
Stamps, AR 71860

Tiffanie Green
476 Lafayette 43
Buckner, AR 71827

Brad and Angela Lloyd
698 Lafayette 28
Lewisville, AR 71845

Richard and Melinda Morton
P.O. Box 232
Lewisville, AR 71845

Chad and Marcy Teague
1283 Lafayette 31
Stamps, AR 71860

Michelle Wheelington
1520 Nevada 3
Stamps, AR 71860

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 1

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

EXHIBIT 2

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District

Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

EXHIBIT 3

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

EXHIBIT 3

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

EXHIBIT 3

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

EXHIBIT 3

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

EXHIBIT 3

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

EXHIBIT 3

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

U. S. DISTRICT JUDGE

MAR 05 1993

CHRIS R. JOHNSON, CLERK DATE: March 4, 1993

Deputy Clerk

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72014
LASER, SHARP, MAYES, WILSON, BUFFORD & WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP.

on _____ by _____

EXHIBIT 3

Opinion No. 2003-269

September 24, 2003

Mr. Raymond Simon, Director
Arkansas Department of Education
#4 Capitol Mall
Little Rock, Arkansas 72201-1071

Dear Mr. Simon:

I am writing in response to your request for an opinion on several questions relating to the "Arkansas Public School Choice Act of 1989," as amended. Specifically, you pose the following questions, which I have numbered below:

1. Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

2. In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

3. Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance

EXHIBIT 4

> with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

RESPONSE

I cannot provide an answer to your first and second questions, because the answer will depend upon the provisions of the applicable U.S. District Court order. In my opinion the answer to your third question is "no," the State Board of Education does not have this authority.

Question 1-- Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

Question 2-- In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

The "Arkansas Public School Choice Act of 1989" is codified at A.C.A. § 6-18-206. It has been amended several times since its original adoption, most recently by Act 1272 of 2003. This most recent act requires all school districts to participate in public school choice, rather than making such participation optional with each school board, as under prior law. The applicable statute sets out a procedure for a student or his or her parent or guardian to make application for a transfer of school districts. The statute also sets out, among other things, requirements pertaining to student transportation and the treatment of "state equalization aid" with regard to transferring students. Subsection (f) of the statute, which you reference in your request, provides as follows:

> (f) The provisions of this section and all student choice options created in this section are subject to the following limitations:
>
> (1) No student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that

EXHIBIT 4

percentage in the student's resident district except in the circumstances set forth in subdivisions (2) and (4) of this subsection;

(2) A transfer to a district is exempt from the restriction set forth in subdivision (f)(1) of this section if the transfer is between two (2) districts within a county, and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and non-resident district remain within an acceptable range of the county's overall minority percentage in the student's race and majority percentages of school population as set forth by the department;

(3) The department shall, by the filing deadline each year, compute the minority percentage in the student's race and majority percentages of each county's public school population from the October Annual School Report and shall then compute the acceptable range of variance from those percentages for school districts within each county. In establishing the acceptable range of variance, the department is directed to use the remedial guideline established in Little Rock School District v. Pulaski County Special School District of allowing an overrepresentation or underrepresentation of black or white students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance. In establishing the acceptable range of variance for school choice, the department is directed to use the remedial guideline of allowing an overrepresentation or underrepresentation of minority or majority students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance;

(4) A transfer is exempt from the restriction set forth in subdivision (f)(1) of this section if each school district within the county does not have a critical mass of minority percentage in the student's race students of more than ten percent (10%) of any single race;

(5) *In any instance where the foregoing provisions would result in a conflict with a desegregation court order or a district's court-*

EXHIBIT 4

> *approved desegregation plan, the terms of the order or plan shall govern;*
>
> (6) The department shall adopt appropriate rules and regulations to implement the provisions of this section; and
>
> (7) The department shall monitor school districts for compliance with this section.

A.C.A. § 6-18-206 (f), as amended by Act 1272 of 2003 (emphasis added).

The emphasized language of subsection (f)(5) above provides for the supremacy of a desegregation orders or court-approved desegregation plans in the case of a "conflict" between such orders and plans, on the one hand, and the "foregoing" provisions of A.C.A. § 6-18-206(f), which outline racial limitations and exceptions on transfers. Conceivably, therefore, a federal court order could, depending upon its provisions, have controlling effect over the provisions of A.C.A. § 6-18-206(f). The question in each instance will be whether the statutory provisions above actually conflict with any such a federal court order. Resolution of that type of question will depend upon the provisions of the order in question and any and all other pertinent facts and laws. I cannot determine this issue in the context of an official Attorney General opinion. As one of my predecessors stated in Op. Att'y Gen. 95-066:

> The construction of such [federal court] orders and agreements is best left to the parties themselves, or ultimately to the federal court. This office has not been provided with a copy of any federal court order or settlement agreement, and cannot, in the context of an official opinion of the Attorney General, especially where the state is not a party, presume to dictate actions to be taken under the rubric of such documents.

Id. at 2. *See also* Op. Att'y Gen. 94-139 (declining to interpret a federal court order and stating that "reference to th[e] particular court order, and possibly clarification from the federal court, would be necessary to resolve the issue conclusively).

I am therefore unable to render an opinion on your first and second questions above.

EXHIBIT 4

Question 3-- Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

Subsection (g) of A.C.A. § 6-18-206 provides that: "[t]he state board shall be authorized to resolve disputes arising under subsections (b) – (f) of this section."

In my opinion the State Board of Education does not have authority to determine that a school district "is in compliance with the Arkansas School Choice Act" where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision. *Cf. State Police v. McCall*, 98 A.D.2d 921, 470 N.Y.S.2d 916 (1983) ("State Human Rights Appeal Board" (a state administrative agency), did not exceed its jurisdiction in construing federal district court order, but only because its decision was supported by other documentary proof and board did not base its decision solely on an interpretation of federal court order).

Disputes involving construction of federal court orders are properly left to the parties thereto, and their respective counsels, or if necessary, to the issuing court itself.

Deputy Attorney General Elana C. Wills prepared the foregoing opinion, which I hereby approve.

Sincerely,

MIKE BEEBE
Attorney General

MB:ECW/cyh

EXHIBIT 4

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 18, 2014, 6:00 P.M.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday, March 18, 2014, 6:00 P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Johnny Brown, Stacey Modisette, Tonya Clark, and Frank Herrera.

President Lindsay Nutt called the meeting to order.

Ms. Stacey Modisette made a motion to approve the February 18, 2014 Regular Board minutes. Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Johnny Brown made a motion to approve the monthly financial obligations. Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0.

Ms. Stacey Modisette made a motion to accept the 2014-2015 Licensed Personnel Salary Schedule as presented. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

Mr. Brad Lloyd made a motion to approve the deletion of fixed assets as presented. Mr. Johnny Brown seconded the motion. Motion passed. Vote 6-0.

A record of production payments received from Weiser Brown Operation Company was presented for board review for informational purposes only.

Ms. Stacey Modisette made a motion to accept the 2014-2015 Calendar for LCSD. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Keith presented information from Strategos International regarding professional development and safety training for the 2014-2015 school year. Mr. Brad Lloyd made a motion to have this company provide the necessary professional development and training for the 2014-2015 school year. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Keith presented a resolution for Lafayette County School District to opt out of participation in the Public School Choice Act of 2013. Mr. Brad Lloyd made a motion to approve the Resolution stating that Lafayette County School District shall not participate in public school choice as defined by Ark. Code Ann. $$ 6-18-1901, et seq. Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0.

Mr. Keith gave an update of the facilities stating that a dishwasher is needing to be replaced in the High School Cafeteria. Bids are currently being accepted. Mr. Johnny Brown made a motion to let Mr. Keith handle this situation as necessary. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 5

The Board entered Executive Session. The Board re-entered Open Session.

Ms. Stacey Modisette made a motion to approve additional duties for Bobby Clark-Girls track coach. Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0

Mr. Johnny Brown made a motion to hire Administrative staff:

- Opal Anderson, High School Principal
- Betsy Griffin, Elementary Principal
- David Downs, Asst Principal/Dean
- Cheryl McMahen, Asst Elem. Principal
- Janet Walker, Federal Programs Coordinator

Ms. Stacey Modisette seconded the motion. Motion passed. Vote 6-0

Ms. Tonya Clark made a motion to accept the resignation of Robert Haworth, Social Studies teacher. Mr. Johnny Brown seconded the motion. Motion passed. Vote 6-0

Mr. Brad Lloyd made a motion to accept the resignation of Joyce Smith and Michael Hamilton, High School Custodians. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0

There being no further business. Mr. Brad Lloyd made the motion to adjourn. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0

Lindsay Nutt
President

Stacey Modisette
Secretary

EXHIBIT 5

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 6

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 6

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 6

ASSOCIATED DOCUMENTS

Rejected
mailed 5-6-15

APPLICATION FOR TRANSFER TO A NON-RESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 1989"

8:00 5-1-15

APPLICANT INFORMATION

Applicant Name R[redacted] Black

Date of Birth [redacted] Gender Male ☐ Female ☑

GRADE

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE)

African American ☐ Asian ☐ Hispanic ☐

Native American ☐ Caucasian ☑ Other ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name Lafayette County County Name Lafayette County

Address Lewisville, AR

Phone 870-921-5500

NON-RESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name Emerson-Taylor-Bradley County Name Columbia

Address 204 East Pine St. Taylor, AR 71861

Phone 870-694-5811

PARENT OR GUARDIAN INFORMATION OF APPLICANT

Name Joey and Lynette Black Home Phone [redacted]

Address [redacted] Work Phone [redacted]

Stamps, AR 71860

Parent/Guardian Signature Lynette Black Date 4-30-15

Pursuant to standards adopted by a non-resident school board a non-resident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a non-resident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a non-resident district's standards shall not include an applicant's previous academic achievement, athletic or other extra curricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. §6-18-510. Priority will be given to applicants with siblings attending the district. The non-resident district shall accept credits toward graduation that were awarded by another district and award a diploma to a non-resident applicant if the applicant meets the non-resident district's graduation requirements. This application must be filed in the non-resident district or postmarked no later than July 1 of the year in which the applicant would begin the fall semester at the non-resident district.

DISTRICT USE ONLY

Application Accepted ☐ Rejected ☑

Date Notification Sent to Parent/Guardian of Applicant 5-6-15

Date Notification Sent to Resident District 5-21-15

APPLICATION FOR TRANSFER TO A NON-RESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 1989"

8:00 5-1-15

APPLICANT INFORMATION

Applicant Name M[redacted] Black

Date of Birth [redacted] Gender Male ☐ Female ☑

GRADE

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE)

African American ☐ Asian ☐ Hispanic ☐

Native American ☐ Caucasian ☑ Other ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name Lafayette County County Name Lafayette County

Address Lewisville, AR

Phone 870-921-5500

NON-RESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name Emerson-Taylor-Bradley County Name Columbia

Address 204 East Pine St Taylor, AR 71861

Phone 870-694-5811

PARENT OR GUARDIAN INFORMATION OF APPLICANT

Name Joey and Lynette Black Home Phone [redacted]

Address [redacted] Work Phone [redacted]

Stamps, AR 71860

Parent/Guardian Signature Lynette Black Date 4-30-15

Pursuant to standards adopted by a non-resident school board a non-resident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a non-resident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a non-resident district's standards shall not include an applicant's previous academic achievement, athletic or other extra curricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. §6-18-510. Priority will be given to applicants with siblings attending the district. The non-resident district shall accept credits toward graduation that were awarded by another district and award a diploma to a non-resident applicant if the applicant meets the non-resident district's graduation requirements. This application must be filed in the non-resident district or postmarked no later than July 1 of the year in which the applicant would begin the fall semester at the non-resident district.

DISTRICT USE ONLY

Application Accepted ☐ Rejected ☑

Date Notification Sent to Parent/Guardian of Applicant 5-6-15

Date Notification Sent to Resident District 5-21-15

R 01/04/02

EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT
Gary Hines, Superintendent
506 E. Pine St.
Taylor, AR 71861

May 6, 2015

Joey & Lynette Black
[redacted]
Stamps, AR 71860

Dear Joey & Lynette:

I regret to inform you that your applications for Reannon Black and Molly Black to attend Taylor Schools for the 2015-2016 school year under the "Arkansas Public School Choice Act of 2015" have been rejected. The reason for the rejection is as follows:

You are a resident of the Lafayette County School District. According to the Arkansas Department of Education, LCSD has opted out of the Arkansas Public School Choice Act. You can find this information on the ADE's website at www.arkansased.org. Click on the "school choice" link under the Educational Options heading.

You have the right to appeal this decision to the Arkansas State Board of Education. For more information contact the Office of the Commissioner at 501-682-4203.

Sincerely,

Gary Hines, Superintendent
EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.*e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

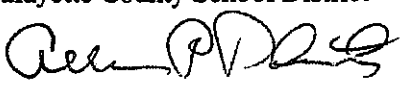
In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District



Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72014
LASER, SHARP, MAYES, WILSON, BUFFORD
& WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP,

on _____ by _____

SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection and applies for a school choice transfer under § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(3) A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under subdivision (c)(2) of this section may complete all remaining school years at the nonresident district.

SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to read as follows:

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district ~~with a copy to~~ ,which shall notify the resident district of the filing of the application;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) A nonresident district that receives an application under subsection (a) of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

(c) A nonresident district shall review and make a determination on each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

1 ~~subsection is irrevocable for one (1) year from the date the school district~~
2 ~~notifies the Department of Education of the declaration of exemption.~~
3 ~~(B) After each year of exemption, the board of directors~~
4 ~~may elect to participate in public school choice under this section if the~~
5 ~~school district's participation does not conflict with the school district's~~
6 ~~federal court-ordered desegregation program.~~
7 ~~(3) A school district shall notify the department by April 1 if~~
8 ~~in the next school year the school district intends to:~~
9 ~~(A) Declare an exemption under this section; or~~
10 ~~(B) Resume participation after a period of exemption.~~
11 ~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit
12 on school choice transfers each school year from a school district, less any
13 school choice transfers into the school district, under this section of not
14 *more than three percent (3%) of the* ~~*school district's three-quarter average*~~
15 ~~*daily membership for the*~~ *enrollment that exists in the school district as of*
16 *October 15 of the immediately preceding school year.*
17 (B) For the purpose of determining the percentage of school
18 choice transfers under this subsection, siblings who are counted in the
19 numerator as transfer students shall count as one (1) student~~, and siblings~~
20 ~~who are counted in the denominator as part of the average daily membership~~
21 ~~shall count as one (1) student~~.
22 (C) A student eligible to transfer to a nonresident
23 district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count
24 against the cap of three percent (3%) of the resident or nonresident
25 district.
26 (2) Annually by ~~June 1~~ *December 15*, the department shall report
27 to each school district the net maximum number of school choice transfers for
28 the ~~current~~ next school year.
29 (3) If a student is unable to transfer due to the limits under
30 this subsection, the resident district shall give the student priority for a
31 transfer in the ~~following~~ first school year in which the district is no
32 longer subject to subdivision § (b)(1) of this section in the order that the
33 resident district receives notices of applications under § 6-18-1905, as
34 evidenced by a notation made by the district on the applications indicating
35 date and time of receipt.
36

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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A.C.A. § 6-18-1901

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1905

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A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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Title 6 Education
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A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY				
Date and Time Received by Resident District:			Date and Time Received by Nonresident District:	
Resident District LEA #:			Nonresident District LEA#:	
Student's State Identification #:				
Application	Accepted		Rejected	
Reason for Rejection (If Applicable):				
Date Notification Sent to Parent/Guardian of Applicant:				
Date Notification Sent to Resident District :				

ROBERT A. WATSON
104 Timber Hills Drive
El Dorado, Arkansas 71730
(870) 862-4604
Email: Lvoris@esd-15.org

December 16, 2011

Allen P. Roberts
Allen P. Roberts, P.A.
325 Jefferson Street
Camden, AR 71701

Dear Mr. Roberts:

I am Bob Watson. I am responding to your request that I write a report stating my opinions and observations about the impact of the racial restriction in the Arkansas School Choice Act of 1989 on El Dorado School District and other similarly situated districts in South Arkansas. You also asked that I opine on what the effect would be on those districts of free and unrestricted school choice without the existing racial restriction. I have attached as Exhibit 1 to this letter a summary of my educational and employment history.

I have attached as Exhibit 2 to this letter is a racial/enrollment chart of our part of Union County. This chart shows El Dorado to be a fifty percent black district of some 4,581 students. It is joined by three districts — Smackover, Norphlet, and Parkers Chapel — that all have a smaller total enrollment with a smaller percentage black enrollment than El Dorado. The relative racial composition of these four school districts as depicted in Exhibit 2 has existed throughout my administration at El Dorado.

It is my opinion and observation that El Dorado School District offers educational, extracurricular, and college scholarship opportunities to its students that are substantially superior to those offered by its neighboring three school districts. I respectfully submit that this conclusion is

PULASKI COUNTY SPECIAL SCHOOL DISTRICT

925 East Dixon Road/P.O. Box 8601
Little Rock, Arkansas 72216-8601

July 24, 2015

Ms. Whitney Moore
Fuqua Campbell P.A.
Riviera Towers
3700 Cantrell Road, Suite 205
Little Rock, Arkansas 72202

Dear Ms. Moore:

At your request, I have read Bob Watson's report dated December 16, 2011, and my report of December 13, 2011, and addendum of January 23, 2012, copies of which are attached. I believe these documents remain a true and correct description of the situation that exists today in southern Arkansas. Any school district with a substantial black enrollment bordered by a school district or districts with an enrollment that is substantially white will suffer rapid re-segregation due to white flight if it participates in school choice. This is illustrated by what happened in the Malvern School District with a black enrollment of *circa* 35% in 2013-14 and 2014-15 when it participated in school choice. According to ADE statistics, the total transfers out of Malvern in 2013-14, substantially all to surrounding "white" districts, were 118, only one of whom was black. In 2014-15 the total number transferring out of Malvern was 109, only two of whom were black. To summarize this, under school choice there was a substantial movement of white students out of the Malvern district to predominantly white surrounding districts.

I understand this letter will be presented to the Arkansas State Board of Education to support denying school choice appeals by white parents seeking school choice transfers out of the Lafayette County School District into either Emerson-Taylor-Bradley school district or Spring Hill School District.

Sincerely,

Dr. Jerry Guess
Superintendent of Schools

PULASKI COUNTY SPECIAL SCHOOL DISTRICT
Office of the Superintendent

December 13, 2011

Mr. Allen P. Roberts
325 Jefferson
P.O. Box 280
Camden, AR 71711

Dear Mr. Roberts:

I'm Jerry Guess and am authoring this report in response to your request that I express my opinion on this question: What would be the impact on the racial composition of public school districts in Ouachita County, Arkansas, specifically, as well as south central Arkansas generally, of free and unrestricted school choice? A recent resume' of mine is attached as a *curriculum vitae.* This school year is my first as superintendent of Pulaski County Special School District. I spent the thirteen years immediately proceeding this year as superintendent of Camden Fairview School District. The basis of the opinion stated herein is my experience in public education, particularly as the superintendent of a south Arkansas school district.

It is my opinion that free and unrestricted school choice would result in rapid and complete segregation of public education in Ouachita County. That is because there are multiple districts in greater Ouachita County of varying racial composition. My experience has taught me that the racial composition of a school or school district is overwhelmingly the most important factor to most white parents in selecting a school for their children: The "whiter" the school or district the more effort and energy white parents will expend to get their children into the "whiter" district and out of the "blacker" districts. My experience has also taught me that racial composition is *not* usually a factor in school or district selection for most black parents. Explaining this phenomenon is beyond both my expertise and the scope of this report. What I do know is that these observations have been universally true for my entire experience in public education.

I've also learned from experience that there is another factor in the equation. Public school districts are "size- competitive." I honestly believe that 100% of school superintendents would choose to have their district growing and expanding rather than shrinking or even stagnant. Of course, there are multiple components of this phenomenon. Two of the most obvious are that public school financing is generally based on a *per capita* approach; and that enrollment growth is generally considered a sign of administrative success. Whatever the explanation, I believe the observation has a universality that makes it tantamount to a truth. When you add this phenomena to the racial preference observations expressed above, the conclusion of white flight is inevitable.

925 East Dixon Road ◇ Little Rock, Arkansas 72206
Phone: (501) 234.2001 ◇ Fax: (501) 490-0483 ◇ Email: jguess@pcssd.org

There are five school districts with substantial territory in Ouachita County: Camden Fairview, Bearden, Harmony Grove, Smackover, and Stephens. The present racial demographics of these districts are shown is Exhibit A.

It is my opinion that removing residence and race as restrictions on Ouachita County school attendance would result in Camden Fairview and Stephens becoming virtually all black due to their remaining students "choicing" out to Harmony Grove and Smackover. The immediate impact would be substantial. The only reason this would not happen immediately for Camden Fairview and Stephens is that it might take some time for Harmony Grove and Smackover to expand their personnel and facilities to accommodate all the white children desiring to attend.

I believe the same result would occur between Bearden and Harmony Grove with the only difference being that it would take longer, *e.g.,* four or five years as opposed to one or two years. This is because the black enrollment of Bearden is *only* 41%. However, as stated above, my experience has been that there is no specific black percentage enrollment that leads to "white flight." Rather it is that there is a "whiter" district nearby. To me this point is illustrated by the present litigation involving as it does white student residents of Malvern School District seeking to leave Malvern for a nearby district. The last time I checked Malvern had a black enrollment of about 31%. My point is this: Malvern would be a "white flight" district if it were situated next door to Camden Fairview with 61% black enrollment or El Dorado with a 50% black enrollment. It is not the number of blacks attending Malvern; it is solely the availability of a nearby "whiter" alternative.

Finally, I believe that Ouachita County is in no way unique among surrounding south central Arkansas counties. The counties and school districts with which I am most familiar are virtually identical to Ouachita County in the factors discussed. They are Union, Columbia, and Hempstead. Each county now has a total population with blacks and whites about evenly divided. Each county has one centrally located "county seat" school district (*i.e.,* Camden Fairview, El Dorado, Magnolia, and Hope school districts). See Exhibit B. Each of these "county seat" districts historically operated a racially dual system which was desegregated in the early 1970s by closing the black system and merging its enrollment with the white students. Finally, each of the four counties has one or more smaller and whiter districts located near the blacker county seat district.

In my opinion, free and unrestricted school choice would rapidly result in each of these counties having a racially segregated public education system. Furthermore, I believe this combination of demographics and school district organization predominates across the span of south Arkansas. It is my opinion that wherever that combination occurs free and unrestricted school choice would result in racially segregated public education.

Regards,

Jerry D. Guess
Superintendent of Schools

JERRY D. GUESS

178 Gray Fawn Trail
Camden, Arkansas 71701
870-837-2575 – home
870-818-7442 – cell

Education

Ed. D.,	1997, University of Arkansas at Little Rock, Little Rock, AR Dissertation: *Desegregation Through Consolidation: A Historical Case Study of the Formation of the Camden Fairview School District*
M.Ed.,	1989, University of Arkansas, Fayetteville, AR Educational Administration
B.A.,	1973, Southern State College, Magnolia, AR English major, history minor
Diploma	1969, Chidester High School, Chidester, AR

Professional Experience

Superintendent, Pulaski County Special School District (PCSSD) (2011-Present)

Superintendent, Camden Fairview School District (CFSD) (1996-2011)

Associate Superintendent, CFSD, (1994-1996)

- Curriculum and Instruction Director K-12
- Coordinator of staff development, technology program, early childhood programs, and special programs
- Acting Personnel director (1994)

Assistant Superintendent, CFSD (1992-1994)

- Developed desegregation program and budget
- Assisted superintendent and board of education in annexation of Camden School District to Fairview School District
- Special Education and Gifted /Talented Program Oversight
- Compensatory Education Coordinator
- Grant writer, K-12

Principal, Fairview Middle School, Fairview School District (FSD) (1990-1992)

- Supervised and evaluated all staff members regarding continued employment and performance improvement
- Responsible for coordination and refinement of mathematics and language curriculum

- Developed and implemented comprehensive rewards and incentives

Assistant Principal, Fairview Middle School, FSD (1986-1990)

- Responsible for discipline, attendance, home-school relations
- Coordinated textbook selections and purchases for all curricular areas
- Chaired in-service, teacher center and six-year plan committees
- Assisted superintendent and board of education in consolidation of Chidester School District and Fairview School District

Gifted and Talented Coordinator, FSD (1985-1990)

- Conducted district-wide needs assessment
- Designed and implemented gifted and talented identification and service models for K-12
- Initiated and implemented ADE-sponsored Academic Enrichment for Gifted in Summer (AEGIS) program, Engineering, Management Exploration, serving 30 residential students for two weeks

Classroom Teacher, Fairview High School, FSD (1978-1986)

- Taught language arts, 10,11, and 12, yearbook and newspaper
- Public relations coordinator for the school district
- Organized, developed, and taught honors creative writing class
- FHS Teacher of the Year, 1984

Professional Organizations and Accomplishments

- Member and President (2010-11), Arkansas Association of School Administrators
- Member and Vice-President (2011-12), Arkansas Association of Supervision and Curriculum Development
- Member, Arkansas Professional Licensure Standards Board
- Arkansas Superintendent of the Year, 2008
- Member and President, Board of Trustees, Southern Arkansas University
- Chair, Southern Arkansas University Presidential Search Committee
- Member, National Association of Supervision and Curriculum Development
- Member, National Organization for Legal Problems in Education
- Member, Board of Directors, and presenter, Arkansans for Gifted and Talented Education
- Member, Board of Directors, and presenter, Arkansas Association of Middle Level Educators
- Member and Board of Directors, Environmental and Spatial Technologies Initiative

- Member and Board of Directors, Arkansas Association of School Administrators
- Member, Phi Kappa Phi.

Selected Community Activities and Honors

- Member and Board of Directors, Camden Area Chamber of Commerce
- Member and Board of Directors, Ouachita County Farm Bureau
- Member and past president, Camden Kiwanis Club
- Member and Board of Directors, Ouachita Partnership for Economic Development, Inc.
- Meritorious Service Award 2002, SAU-Tech
- Community Service Award 2001, Camden Area Chamber of Commerce
- Member and Board of Directors, People Are Concerned

References

Available upon request

EXHIBIT A

SCHOOL DISTRICT	2011-12 ENROLLMENT	BLACK (%)	NON-BLACK (%)
Camden Fairview	2,425	1,481 (61%)	944 (39%)
Harmony Grove	1,036	230 (22%)	806 (78%)
Smackover	822	187 (28%)	635 (77%)
Bearden	572	234 (41%)	338 (59%)
Stephens	326	279 (86%)	47 (14%)

"Statewide Information System Reports: Enrollment." *ADE Data Center*. 8 December 2011. Arkansas Department of Education. 12 December 2011. <http://adedata.arkansas.gov/statewide/Districts/Enrollment.aspx>

EXHIBIT B

AREA	POPULATION/ ENROLLMENT	BLACK (%)	NON-BLACK (%)
Union County	41,639*	13,721 (33%)	27,918(67%)
El Dorado S.D.	4,581**	2,309 (50%)	2,272 (50%)
Columbia County	24,552*	9,059 (37%)	15,493 (63%)
Magnolia S.D.	2,728**	1,460 (54%)	1,268 (46%)
Hempstead County	22,609*	6,646 (29%)	15,963 (71%)
Hope S.D.	2,460**	1,153 (47%)	1,307 (53%)

* "2010 Census Interactive Population Search." *United States Census 2010.* 26 May 2011. U.S. Census Bureau. 12 December 2011. <http://2010.census.gov/2010census/popmap/ipmtext.php?fl=05>

** "Statewide Information System Reports: Enrollment." *ADE Data Center*. 8 December 2011. Arkansas Department of Education. 12 December 2011. <http://adedata.arkansas.gov/statewide/Districts/Enrollment.aspx>

JERRY D. GUESS

178 Gray Fawn Trail
Camden, Arkansas 71701
870-837-2575 - home
870-818-7442 – cell

January 23, 2012

Mr. Allen P. Roberts
325 Jefferson Street
P.O. Box 280
Camden, AR 71711

Dear Mr. Roberts;

You asked me to prepare an addendum to my previous report dated December 13, 2011, if I could accurately discuss the history of desegregation in Arkansas from 1954 to 1970. I believe I can, and that discussion, including the basis for my statements, follows.

I wrote my doctoral dissertation on desegregation in Ouachita County, Arkansas public schools. In preparing and writing that dissertation I studied and became familiar with the history of desegregation of public education in Arkansas generally, and south Arkansas in particular. I also "lived" most of the experience graduating from Chidester High School (Ouachita County) in 1969. I was born in 1950, and raised and educated in the public schools of Ouachita County. I am a public school teacher and administrator by profession and experience. Most of my professional employment has been in Ouachita County public schools beginning in 1978. My *curriculum vitae* is attached to my earlier report submitted herein.

In addition to my doctoral studies, I also accumulated knowledge used to state the facts, opinions, and conclusions contained herein by preparing and testifying on desegregation before various *ad hoc* and standing groups of Arkansas legislators and other groups over the past ten years. That work was virtually always done jointly in concert with my colleague, the superintendent of El Dorado School District, Robert Watson. This collaboration armed me with an even better knowledge of the desegregation history of El Dorado School District than I had acquired in my studies and personal experience. All of this together enables me to state that the desegregation history of Chidester, Camden, Fairview, and El Dorado school districts, *circa* 1954-1971, is virtually identical.

At the time of *Brown v. Board of Education,* all four of the districts mentioned operated two school systems, one for blacks and one for whites. It would be more accurate, because of the multiple classifications of race and ethnicity used today, to say that these districts operated two separate education systems, one for non-blacks and the other for blacks. I say this because all ethnic identifications except black, *e.g.,* white, oriental, Hispanic, American Indian, *etc.,* went to the "white" schools, while all children with any black ancestry were relegated to the black schools.

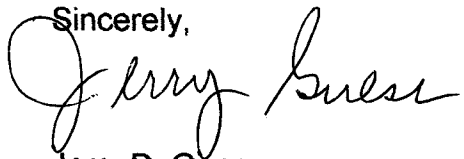
Desegregation under *Brown* began in the last half of the 1950s motivated by both court litigation and administrative intervention through the federal Health, Education, and Welfare Department (HEW). Fairview, Chidester, Camden, and El Dorado all operated in these early years under court or agency approved "freedom-of-choice" desegregation plans. Under these arrangements both the white (non-black) schools and the black schools remained open, but with the districts ordered to permit students to attend either, regardless of race. No meaningful desegregation occurred under freedom-of-choice. I believe without exception *all* non-black (white) students continued to attend the white schools, while substantially all black children continued to attend the "black" schools. This remained the case until 1969 when HEW decided it would no longer approve federal funding for school districts with freedom-of-choice desegregation plans. This left the four school districts under discussion with virtually no choice for 1969-70 and beyond. Each immediately closed its "black schools" and merged its black and non-black student bodies in the former "white schools."[1]

Camden High School in the Camden School District was typical of the four districts under freedom-of-choice. My research indicates that 1965 was the first year of any desegregation, which was by freedom-of-choice. In 1965 only five black children attended the "white" schools, all at Camden High School with a total enrollment of *circa* 700. Though some new children came and some graduated, the total black enrollment at CHS remained at four to six students until *circa* 1969. The eighth grade class in the black school had no whites, and the eighth grade class in the white school had no blacks. Camden School District merged these two eighth classes into the entering ninth grade class at existing Camden High School in 1969. After the 1969 HEW order a new high school facility was completed and all high school grades, as well as all the elementary grades, were merged in 1970.

Camden, Chidester, Fairview, and El Dorado school districts shared the above-described 1954-71 desegregation history. It is my opinion that this history was identical to that of virtually all other similarly situated south and central Arkansas school districts.

Please let me know if there are questions.

Sincerely,



Jerry D. Guess

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[1] Camden actually sought and received a partial time-waiver from HEW of the order to "immediately" merge the student bodies because a new high school facility large enough to accommodate both white and black enrollments was already under construction. Therefore, the total black/white merger occurred in Camden in 1970, rather than 1969 as it did for Chidester, El Dorado, and Fairview.

supported by every objective standard by which one could test such a conclusion. I am also attaching as Exhibit 3 to this letter an itemization of El Dorado's academic, extracurricular, and scholarship offerings that support the conclusion of excellence that I have just advanced.

Even a cursory examination of this exhibit also clearly establishes that I would be incorrect if I advanced this bold assertion as the product of my administrative abilities. It is not, and I am just the person lucky enough to have been on board when the corporate citizens and patrons of this district, together with the people employed by the district, past, present, and future, pushed this district to the position of excellence it now enjoys.

I am have been superintendent of schools for the El Dorado School District since 1985. Before that I was the principal of El Dorado High School and also taught and held other administrative positions in the district. During that period of time, I have dealt personally with requests from parents residing in El Dorado to permit their children to attend school in another district. These requests include requests for transfers under the Arkansas School Choice Act of 1989, as well as arguments to me as to why El Dorado should permit a white student to move to another district even though that movement would not be permissible under our existing school choice statute. El Dorado is now, and throughout this period of time has been, under a desegregation court order. In that regard, I have been since 1985 the primary spokesman for the district in all its dealings with the Court and with the plaintiff-class of black students and parents, as well as with their attorney, John W. Walker.

Based on my experience referred to above, I have formed opinions and made observations regarding what you asked about. My first observation is that race trumps all other considerations, including quality of education, in Union County among most white parents selecting a school district for their child to attend. As a general rule, white parents will go to great lengths and expend great amounts of energy to send their child to the school with the smallest percentage black enrollment.

This is true now and has been true throughout my twenty-seven years as superintendent. If the School Choice Act of 1989 had not included its racial restriction, it is my opinion that El Dorado would have very quickly lost its white students and become an overwhelmingly black school district. Furthermore, it is my opinion that El Dorado could not hold its white students today were it not for the residence and racial restrictions in Arkansas' attendance laws. But for those restrictions, I believe white students in El Dorado would very quickly move to Parkers Chapel, Smackover, and Norphlet.

Finally, it is my opinion that the same situation I have described exists today in every area of Arkansas that has (1) a substantial black population; (2) and multiple school districts; (3) that are in close proximity to one another; (4) and that are racially identifiable. In other words, this is the same situation that exists all over South Arkansas. It is my belief that removal of the residence and racial restrictions from Arkansas' school attendance laws would rapidly result in segregated public education in South Arkansas very similar, if not identical, to what existed through the 1960s.

Sincerely,

/s/ *Robert A. Watson*

Robert A. Watson

ROBERT A. WATSON
104 Timber Hills Drive
El Dorado, Arkansas 71730
(870) 862-4604
Email: Lvoris@esd-15.org

Education:

Administrator Certification, University of Arkansas, Fayetteville, Arkansas (1982)
M.A., Louisiana Tech University, Ruston, Louisiana (1969, Speech)
B.A., Louisiana Tech University, Ruston, Louisiana (1968, Speech Education)
Diploma, Logan High School, Logan, West Virginia (1963)

Professional Experience:

Superintendent of Schools, El Dorado School District (1985-Present)

Principal, El Dorado High School, El Dorado School District (1980-1985)

Principal, Barton Junior High School, El Dorado School District (1975-1980)

Assistant Principal, El Dorado High School, El Dorado School District (1974-1975)

Dean of Students, Man High School, Logan County School District, Logan, West Virginia (1973-1974)

Classroom teacher and coach, Man High School, Logan, West Virginia (1971-1973)

Classroom teacher, Man High School, Logan, West Virginia (1969-1973)

Professional Organizations and Accomplishments

Member and President (1999-2001) Arkansas Association of School Administrators

Arkansas Superintendent of the Year, 2001

Member and President (1998-2001) of Economics Arkansas, current board member

Member of the State and Public School Life and Health Insurance Board (2007-2011)

Community Activities and Honors

Member and Board of Directors (2007-2009), El Dorado Chamber of Commerce

Member and Past President (1986-1987), Rotary Club

Paul Harris Fellow – The Rotary Foundation of Rotary International

References

Available upon request.

EXHIBIT 2

School District	2011-2012 Enrollment	Black	Non-black
El Dorado	4,581	2,309 (50.4%)	2,272 (49.6%)
Smackover	822	187 (22.7%)	635 (77.3%)
Parkers Chapel	650	67 (10.3%)	583 (89.7%)
Norphlet	414	93 (22.5%)	321 (77.5%)

"Statewide Information System Reports: Enrollment." *ADE Data Center.* 8 December 2011. Arkansas Department of Education. 12 December 2011. <http://adedata.arkansas.gov/statewide/Districts/Enrollment.aspx>

El Dorado School District

200 West Oak Street
El Dorado, Arkansas 71730
870.864.5001
www.eldoradopublicschools.com
www.eldoradopromise.com

Mission

All students in El Dorado School District will become proficient or advanced in all disciplines in a safe learning environment.

Schools

ESD has 8 campuses with 5 elementary focus schools, 1 middle school, 1 junior high, and 1 high school.

- Hugh Goodwin Academy for the Arts (K-4)
- Northwest Environmental Studies Academy (K-4)
- Retta Brown Communication & Technology (K-4)
- Union Academy of Health & Wellness (K-6)
- Yocum Academy for Math & Science (K-4)
- Washington Middle School for Arts & Sciences (5-6)
- Barton Junior High School (7-8)
- El Dorado High School (9-12)

Highlights & Recognitions

- Free college tuition for El Dorado High graduates
- Endowed Chairs in Math, Science, Foreign Language, and Literacy for K-12 curriculum alignment
- El Dorado High chosen in first 10 high schools to receive Arkansas Advanced Initiative for Math & Science (AAIMS) Advanced Placement grant sponsored by Exxon-Mobil
- El Dorado High "Academic Signing Day" featured in *People Magazine*
- College Board Honor Roll of Outstanding AP Programs 2010-2011
- El Dorado High state finalist for Teacher of the year featured in *Southern Living Magazine*
- Barton Junior High "Top Ten Junior High Schools Consistently High-Performing" by National Center for Educational Accountability
- El Dorado High Southern Regional Education Board (SREB) featured school in *Rigor, Relevance & Relationships Improve Achievement*
- Barton Junior High recognized as "Best Practices" high-performing middle school
- Barton Junior High recognized as Top Performing School in Literacy & Math by National Center for Educational Achievement *2009-2010 & 2010-2011*
- Jacob Javits Foundation used district as a model for statewide Gifted evaluation program
- District & staff recognized with Challenger Award by Arkansans for Gifted & Talented Education
- Magna Award from American School Boards Association 2009 & 2011
- ERI Golden Apple Award for outstanding Direct Instruction in all elementary schools
- 2010 Consolidated School *Health Healthy School Board Gold Award*
- 2010 Pride Team of the Year

Community Support

- El Dorado Promise from Murphy Oil for 5-years of college tuition for all El Dorado high graduates
- El Dorado Education Foundation
  - Sponsor Endowed Chairs Program
  - Teacher Grants for unique projects
  - Teacher Excellence Awards
- Murphy Education Program
  - Cash Awards for student scores on Advanced Placement, ACT, SAT, & Benchmark Exams
  - Cash Awards for Advanced Placement teachers
  - Academic Letter Jackets
- Murphy Foundation has given 700 scholarships
- Union County Community Foundation annually gives over 20 scholarships to El Dorado High students
- First Financial Bank – student & teacher support
- Simmons First Bank – student & teacher support
- Share Foundation
  - Sponsor Pride Youth Program
  - Coordinated School Health

Student Opportunities & Achievements

- 4,650 students district-wide
- Student interest focus in all elementary schools
- 19 Advanced Placement courses
  - $9,300 cash awards from AAIMS for student AP scores
  - Recognized by College Board as one of two high schools in Ark. For increased AP scores
    - 19 AP Scholars
    - 3 AP Scholars with Distinction
    - 4 AP Scholars with Honors
    - 2 National AP Scholars
- 7 Concurrent Credit courses
- Pre-AP courses in all core areas beginning 5th grade
- Gifted Program in all schools
  - Odyssey of the Mind, Quiz Bowl, unique field trips, Duke Talent Search
- Over $1.18 million dollars in academic scholarships for 2009
- Murphy Education student awards for various test scores
- ACT Support Center – free ACT preparation for all 9-12 students
- Athletic Program
  - 7-12 baseball, basketball, cross country, football, golf, soccer, swimming, tennis, track, volleyball

- AAAAAA South Athletic Conference
- Excellent athletic facilities
- State Champs 2009-10 Football & Girls Golf
- State Champs 2010-2011 Football, Girls Basketball, Golf

- Outstanding Fine Arts Programs
- Regional & State Science & Math awards
- Special Instructional Programs
  - Bridge to College Algebra, Waiting to Excel,
  - Accelerated Academies
- CHAMPS, PRIDE, FBLA, FCCLA, Young Republicans, Young Democrats, Student Counsel, and many other clubs

Staff Highlights & Recognitions

- Over 400 certified staff
- 200 staff have advanced degrees
- 5 National Board certified teachers
- 70 Advanced Placement/Pre-AP certified staff
- 50 Laying the Foundation certified staff
- 11 GT certified staff
- Toyota Tapestry Excellence in Science Teaching Award
- National Association of Biology Teachers "Outstanding Biology Teacher of the Year"
- 1st Butler Center for Arkansas Studies Fellow
- Bessie B. Moore Excellence in Teaching Economics Award
- Robert Rauschenberg Foundation Power of Art Award
- Blue Bell Ice Cream Arkansas Regional Teacher of the Year
- 2009 Arkansas Teacher of the Year finalist
- Top Ten Finalist in Shell National Science Teacher Award
- Staff chosen for Eisenhower People to People Literacy Team for South Africa educational tour
- Arkansas Newspaper in Education Teacher of the Year
- Wal-Mart Teacher of the Year (multiple times)
- Arkansas Superintendent of the Year
- ERI Principal of the Year
- AAEA/AACIA Administrator of the Year 2010

Fine Arts Program

- A+ School Network designation
- Music & visual arts instruction in all elementary schools
- Band grades 5-12 and Concert, Jazz, & Marching Band 9-12
- Orchestra grades 5-12
- Vocal music – various choirs, ensembles & madrigal groups 5-12
- Visual Arts
  - Watercolor, oils, ceramics
  - Advanced Placement Drawing, 2-D & 3-D Art
  - Artists in Education through South Arkansas Arts Center
  - Master in Fine Arts instructor
- Performing Arts
  - Drama grades 5 – 12, Dance, Specialized music classes
- Thespian Troupe regularly performs at American Theater Festival in Edinburgh Fringe Festival, Edinburgh, Scotland
- Thea Foundation Scholarship students
- South Arkansas Symphony partnership
- AP Music Theory

Technology

- 2 to 1 student to computer ratio
- All schools networked
- E-Labs, X-Labs, E.A.S.T. Lab
- Smartboards, TI Navigator, Interwrite, Quizdom, graphing calculators, Mac Labs, iPods, cameras, Compass Odyssey, A+

Partnerships

- El Dorado Education Foundation
- A+ Schools Network
- Arkansas Council on Economics Education
- Economics Arkansas
- Boys & Girls Club
- South Arkansas Arts Center
- South Arkansas Community College
- El Dorado Chamber of Commerce
- El Dorado Education Foundation
- Healthworks Fitness Center
- South Arkansas Symphony Orchestra
- Arkansas Museum of Natural Resources
- Murphy Oil Corporation
- Murphy Foundation
- Murphy Education Program
- Cyber Innovation Center
- Share Foundation
- Simmons First Bank
- First Financial Bank

Accreditation

ESD is fully accredited by the Arkansas Department of Education. El Dorado High is also accredited by North Central Association.

HEARING PROCEDURES

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

COPY

June 3, 2015

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

Mike and Angie Vickers
[redacted]
Buckner, AR 71827

Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Angie Raney, Superintendent
Spring Hill School District
633 Highway 355 West
Hope, AR 71801

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is tentatively scheduled to hear the above-referenced appeal(s) on **Thursday, July 9, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on June 19, 2015**.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

/signed/

Jeremy C. Lasiter
General Counsel

cc: Mr. Johnny Key, Commissioner of Education
Ms. Annette Barnes, Asst. Commissioner, Public School Accountability
State Board of Education Office

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

Copy to Mr. Johnny Key

May 15, 2015

Samuel Ledbetter

Four Capital Mall

Little Rock, AR 72201

RECEIVED
COMMISSIONER'S OFFICE
MAY 18 2015
DEPARTMENT OF EDUCATION

RECEIVED
ATTORNEY'S OFFICE
MAY 19 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

Dear Mr. Ledbetter,

I would like to like to introduce myself. My name is Angie Vickers. I am writing on behalf of myself and my husband Mike Vickers. We applied for our children to be able to attend Spring Hill School District in Hope Arkansas using the School Choice Act. We currently live in Buckner, AR which is in Lafayette County. We were denied the option of school choice because Lafayette County School District has declared exemption from the Public School Choice Act of 2015 due to the provisions of a desegregation court order or plan. I personally looked on the Department of Education website and found the letter written from Lafayette County School District's attorney, Allen Roberts, along with the supporting document from a lawsuit that they consider a desegregation lawsuit. I am not a lawyer; however, while looking through the lawsuit it seemed to pertain to employees and the need to make sure people were not being discriminated against in employment at this district- not in discrimination involving students. I also wanted to check on the fact that this lawsuit was from 1992. At that time there was no Lafayette County School District. In searching for information I found the agenda from the State Board of Education dated February 10, 2003 requesting that each original district (Lewisville and Stamps School Districts) form a new district effective July 1, 2003. If this lawsuit is from a time before there ever was a Lafayette County School District, how can it apply to the School Choice Act now and how can Lafayette County School District use it in order to avoid complying with the Act?

There are many reasons that we would like to be able to use the School Choice Act in order to send our children to Spring Hill Schools. First, I am currently a teacher at Spring Hill School. We have a son that is graduating this year and two younger children that attend Spring Hill Elementary. I utterly enjoy teaching at this school district. I plan to teach for many years to come; however, due to some recent health problems I am not sure what the future will hold for me. We would like for our children to be able to continue their education at Spring Hill Schools

in the event that I am no longer able to teach. The reasons for this is that the school community is outstanding, respect with accountability and discipline is part of the school culture, and this is where my children have their roots, memories, and belonging. In today's society stability is a treasure. We want the stability of our children to remain intact. They are thriving at Spring Hill Schools! Next, the school ranking of Lafayette County Schools compared to Spring Hill Schools concerns me as far as the education that my children would receive. I am basing this on the districts report cards. Next year for example our son will be in third grade and our daughter will be in seventh grade. The AMO reported for third grade literacy and math for Lafayette County is 63.47/74.15. The AMO reported for the same area for Spring Hill Schools is 90.03/91.67. The AMO reported for seventh grade literacy and math for Lafayette County is 63.47/74.15. The AMO reported for the same area for Spring Hill Schools is 90.03/91.67. The graduation rate shown on the respective reports for Lafayette County Schools is 80.4% and 97.8% for Spring Hill Schools. Finally, the safety of our children is of great concern for us. There have been a few publicized instances concerning employees of Lafayette County Schools that would cause us great concern if our children attended classes there.

In conclusion, **we respectfully ask that we be granted a hearing to reconsider the application**. Thank you very much for your time in reading this letter, and we look forward to your reply.

Sincerely,

Mike + Angie Vickers

Mike and Angie Vickers

SPRING HILL SCHOOL DISTRICT
633 HWY 355 WEST
HOPE, AR 71801

Angie Raney, Superintendent
Office #870-777-8236
FAX #870-777-9200
E-Mail: angie.raney@springhill.k12.ar.us

May 8, 2015

Dear Mrs. Vickers:

Thank you for your application for transfer to the Spring Hill School District. We appreciate your interest in our schools. We regret to inform you that we must deny your application for the 2015-16 school year.

The Spring Hill School District is unable to accept your application for transfer at this time, due to the fact that the Lafayette County Public Schools has declared an exemption from the Public School Choice Act of 2015 due to the provisions of a desegregation court order or plan.

If you have any questions, please contact me at 870-777-8236.

Sincerely,

Angie Raney

Angie Raney, Superintendent

cc: Resident District

From: Mike Vickers
[redacted]
Bucknu, AR 71827

UNITED STATES POSTAL SERVICE

1000

72201

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PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

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Document Mailer

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To: Mr. Johnny Key
Four Capital Mall
Little Rock, AR 72201

APPLICATION FOR TRANSFER TO A NON-RESIDENT DISTRICT
"ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"

(Must be submitted to Non-Resident Districts)

APPLICANT INFORMATION

Applicant Name [redacted] Dickens — Date and Time Received by Non-Resident District: 4/21/15 8:30 AM

Date of Birth [redacted] — Gender Male ☑ Female ☐

GRADE

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☑

African American ☐ Asian ☐ Hispanic ☐

Native American/ Native Alaskan ☑ Native Hawaiian/ Pacific Islander ☐ White ☑

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name Lafayette County County Name Lafayette County

Address Stamps, AR

Phone

NON-RESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name Spring Hill Schools County Name Hempstead County

Address Hope, AR

Phone 722-7420

Does the applicant already have a sibling or step-sibling in attendance in this district? Yes - Jessie

PARENT OR GUARDIAN INFORMATION OF APPLICANT

Name Shaun Dickens / Mike Dickens — Home Phone [redacted]

Address [redacted] — Work Phone [redacted]

Bickner, AR 71827

Parent/Guardian Signature [signature] — Date 4/21/15

Pursuant to standards adopted by a non-resident school board a non-resident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. A school district receiving transfers under the School Choice Act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion or disability. However, a non-resident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Act 560 of 2015 (Public School Choice Act). Priority will be given to applicants with siblings or step-siblings attending the district. The non-resident district shall accept credits toward graduation that were awarded by another district and award a diploma to a non-resident applicant if the applicant meets the non-resident district's graduation requirements. This application must be filed in the non-resident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the non-resident district. Any district receiving this application must retain it in its district records for at least one (1) year from the date it is received, for data verification and general recordkeeping purposes.

DISTRICT USE ONLY

Application Accepted ☐ Rejected ☑

Date Notification Sent to Parent/Guardian of Applicant 5/8/15 desegr

Date Notification Sent to Resident District 5/8/15

APPLICATION FOR TRANSFER TO A NON-RESIDENT DISTRICT
"ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"

(Must be submitted to Non-Resident Districts)

APPLICANT INFORMATION

Applicant Name [redacted] Vickers — Date and Time Received by Non-Resident District: 4/21/16 8:30 AM

Date of Birth [redacted] — Gender Male ☐ Female ☑

GRADE

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races	☑				
African American	☐	Asian	☐	Hispanic	☐
Native American/ Native Alaskan	☑	Native Hawaiian/ Pacific Islander	☐	White	☑

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name La-faye-tte County — County Name Lafayette County

Address Stamps, AR 71

Phone

NON-RESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name Spring Hill Schools — County Name Hempstead County

Address Hope AR

Phone 722-7420

Does the applicant already have a sibling or step-sibling in attendance in this district? Yes Tucker

PARENT OR GUARDIAN INFORMATION OF APPLICANT

Name Mike Amanda Vickers — Home Phone [redacted]

Address [redacted] — Work Phone [redacted]

Buckner, AR 71827

Parent/Guardian Signature [signature] — Date 4/21/15

Pursuant to standards adopted by a non-resident school board a non-resident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. A school district receiving transfers under the School Choice Act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion or disability. However, a non-resident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Act 560 of 2015 (Public School Choice Act). Priority will be given to applicants with siblings or step-siblings attending the district. The non-resident district shall accept credits toward graduation that were awarded by another district and award a diploma to a non-resident applicant if the applicant meets the non-resident district's graduation requirements. This application must be filed in the non-resident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the non-resident district. Any district receiving this application must retain it in its district records for at least one (1) year from the date it is received, for data verification and general recordkeeping purposes.

DISTRICT USE ONLY

Application Accepted ☐ Rejected ☑

Date Notification Sent to Parent/Guardian of Applicant 5/8/15 desig

Date Notification Sent to Resident District 5/8/15

Fax Cover Letter

To: Jeremy Lasiter and Kendra Clay

Fax # 501-682-1079

From: Mike and Angie Vickers

Tommy and Connie Dean

Harley and Holly Tatom

Chad and Marcy Teague

[redacted]

Re: School Choice Materials For Appeal Hearing

Number of Pages (including cover sheet) 10

Date: 6/18/15

Comments: Please include all copies as additional materials to be viewed for Lafayette County Parents School Choice Appeal scheduled for July 9, 2015.

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com

Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (*i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

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suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District

Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

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Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

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staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

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and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 50%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

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and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

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appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

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December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72013
LASER, SHARP, MAYES, WILSON, BUFFORD
& WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a) and 58, FRCP.

on _____ by _____

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Fax Cover Letter

To: Jeremy Lasiter and Kendra Clay

Fax # 501-682-1079

From: Mike and Angie Vickers

Tommy and Connie Dean

Harley and Holly Tatom

Chad and Marcy Teague

[redacted]

Re: School Choice Materials For Appeal Hearing

Number of Pages (including cover sheet) 9

Date: 6/18/15

Comments: Please include all copies as additional materials to be viewed for Lafayette County Parents School Choice Appeal scheduled for July 9, 2015.

Emerson-Taylor-Bradley School District - 1408000

Taylor Elementary School - 1408018

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Proficient	2012-2013 Below Basic	2012-2013 Proficient	2013-2014 Below Basic	2013-2014 Proficient	School AMO
3rd Grade Literacy		Annual Measurable Objective (AMO) 83.52		2013 AMO 85.02				AMO
Combined Population	100			0	10.53	4.35	39.1	86.52
TAGG	100			RV	RV	9.09	54.5	71.43
African American	RV			RV	RV	RV	RV	50.00
Hispanic	RV			RV	RV	RV	RV	
Caucasian	100			0	10.53	4.55	36.4	87.86
Economically Disadvantaged	100			RV	RV	10.0	50.0	75.68
Students with Disabilities	RV			RV	RV	RV	RV	42.31
Limited English Proficient	RV			RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 3rd Grade Literacy			RV		RV		—	
Female	100			RV	RV	0.00	40.0	
Male	100			0	7.14	7.69	38.5	
Migrant	RV			RV	RV	RV	RV	
3rd Grade Mathematics		Annual Measurable Objective (AMO) 91.76		2013 AMO 92.51				AMO
Combined Population	100			0	47.37	0.00	39.1	93.26
TAGG	100			RV	RV	0.00	36.4	89.28
African American	RV			RV	RV	RV	RV	75.00
Hispanic	RV			RV	RV	RV	RV	
Caucasian	100			0	47.37	0.00	36.4	93.82
Economically Disadvantaged	100			RV	RV	0.00	40.0	89.87
Students with Disabilities	RV			RV	RV	RV	RV	71.16
Limited English Proficient	RV			RV	RV	RV	RV	
Female	100			RV	RV	0.00	40.0	
Male	100			0	36.71	0.00	38.5	
Migrant	RV			RV	RV	RV	RV	

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Emerson-Taylor-Bradley School District - 1408000

Taylor High School - 1408019

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Basic	2011-2012 Proficient	2011-2012 Advanced	2012-2013 Below Basic	2012-2013 Basic	2012-2013 Proficient	2012-2013 Advanced	2013-2014 Below Basic	2013-2014 Basic	2013-2014 Proficient	2013-2014 Advanced	School
7th Grade Literacy		Annual Measurable Objective (AMO) 85.45				2013 AMO 86.78								AMO
Combined Population	100					0	[illegible]	41.38	[illegible]	0.00	[illegible]	30.8	[illegible]	88.10
TAGG	100					0	[illegible]	33.33	[illegible]	0.00	[illegible]	50.0	[illegible]	76.00
African American	RV					RV	RV	RV	RV	RV	RV	RV	RV	40.00
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Caucasian	100					0	[illegible]	42.86	[illegible]	0.00	[illegible]	31.8	[illegible]	92.25
Economically Disadvantaged	RV					0	[illegible]	38.46	[illegible]	RV	RV	RV	RV	76.00
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	25.00
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 7th Grade Literacy					RV				RV				—	
Female	100					0	[illegible]	18.18	[illegible]	0.00	[illegible]	23.1	[illegible]	
Male	100					0	[illegible]	55.56	[illegible]	0.00	[illegible]	38.5	[illegible]	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Mathematics		Annual Measurable Objective (AMO) 87.06				2013 AMO 88.23								AMO
Combined Population	100					10.34	[illegible]	44.83	[illegible]	15.4	[illegible]	19.2	[illegible]	89.41
TAGG	100					20	[illegible]	53.33	[illegible]	40.0	[illegible]	30.0	[illegible]	81.25
African American	RV					RV	RV	RV	RV	RV	RV	RV	RV	55.00
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Caucasian	100					10.71	[illegible]	42.86	[illegible]	9.09	[illegible]	13.6	[illegible]	91.56
Economically Disadvantaged	RV					7.69	[illegible]	61.54	[illegible]	RV	RV	RV	RV	81.25
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	25.00
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Female	100					18.18	[illegible]	36.36	[illegible]	23.1	[illegible]	23.1	[illegible]	
Male	100					5.56	[illegible]	50	[illegible]	7.69	[illegible]	15.4	[illegible]	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	

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Lafayette County School District - 3704000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Basic	2011-2012 Proficient	2011-2012 Advanced	2012-2013 Below Basic	2012-2013 Basic	2012-2013 Proficient	2012-2013 Advanced	2013-2014 Below Basic	2013-2014 Basic	2013-2014 Proficient	2013-2014 Advanced	District
3rd Grade Literacy		Annual Measurable Objective (AMO) 55.35						2013 AMO 59.41						AMO
Combined Population	100					10	20	24	46	10.3	15.1	33.3	41.2	63.47
TAGG	100					11.36	22.73	25	40.91	11.8	17.6	35.3	35.3	61.51
African American	100					13.79	24.14	29.69	32.41	16.7	25.9	27.8	29.6	59.25
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	89.28
Caucasian	100					5	25	25	45	5.00	30.00	35.0	30.0	70.12
Economically Disadvantaged	100					11.36	22.73	25	40.91	11.8	17.6	35.3	35.3	81.73
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 3rd Grade Literacy					RV				RV				—	
Female	100					0	15	30	55	6.25	12.5	31.3	50.0	
Male	100					16.67	43.33	20	40	13.0	17.4	34.8	34.8	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	
3rd Grade Mathematics		Annual Measurable Objective (AMO) 68.40						2013 AMO 71.28						AMO
Combined Population	100					6	54	40	60	2.56	20.5	17.9	59.0	74.15
TAGG	100					6.82	52.3	40.91	59.09	2.94	20.6	20.6	55.9	72.87
African American	100					3.45	10.34	41.38	44.83	5.56	22.2	27.8	44.4	69.95
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	100.00
Caucasian	100					10	0	35	55	0.00	20.00	10.0	70.0	80.32
Economically Disadvantaged	100					6.82	52.3	40.91	59.09	2.94	20.6	20.6	55.9	73.24
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Female	100					5	55	35	60	0.00	21.9	18.8	59.3	
Male	100					6.67	43.33	43.33	56.67	4.35	17.4	17.4	60.9	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	

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Lafayette County School District - 3704090

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Advanced 3%	2012-2013 Below Basic	Basic	Proficient	Advanced	Advanced 3%	2013-2014 Below Basic	Basic	Proficient	Advanced	Advanced 3%	District
6th Grade Mathematics		Annual Measurable Objective (AMO) 68.40					2013 AMO 71.28										AMO
Combined Population	100						13.33	[illegible]	22.22	[illegible]	[illegible]	10.5	[illegible]	33.3	[illegible]	[illegible]	74.15
TAGG	100						15.79	[illegible]	23.68	[illegible]	[illegible]	12.0	[illegible]	32.0	[illegible]	[illegible]	72.87
African American	100						18.18	[illegible]	21.21	[illegible]	[illegible]	12.8	[illegible]	30.8	[illegible]	[illegible]	69.95
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	100.00
Caucasian	100						0	[illegible]	30	[illegible]	[illegible]	5.88	[illegible]	35.3	[illegible]	[illegible]	80.32
Economically Disadvantaged	100						15.79	[illegible]	23.68	[illegible]	[illegible]	12.5	[illegible]	31.3	[illegible]	[illegible]	73.24
Students with Disabilities	100						RV	RV	RV	RV	RV	40.0	[illegible]	20.0	[illegible]	[illegible]	40.79
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Female	100						12	[illegible]	16	[illegible]	[illegible]	9.09	[illegible]	33.3	[illegible]	[illegible]	
Male	100						15	[illegible]	30	[illegible]	[illegible]	12.5	[illegible]	33.3	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Literacy		Annual Measurable Objective (AMO) 55.35					2013 AMO 59.41										AMO
Combined Population	100						2.08	[illegible]	43.75	[illegible]	[illegible]	0.00	[illegible]	34.0	[illegible]	[illegible]	63.47
TAGG	100						-2.63	[illegible]	44.74	[illegible]	[illegible]	0.00	[illegible]	39.0	[illegible]	[illegible]	61.51
African American	100						3.12	[illegible]	43.75	[illegible]	[illegible]	0.00	[illegible]	31.3	[illegible]	[illegible]	59.25
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	69.28
Caucasian	100						0	[illegible]	46.67	[illegible]	[illegible]	0.00	[illegible]	31.3	[illegible]	[illegible]	70.12
Economically Disadvantaged	100						2.63	[illegible]	44.74	[illegible]	[illegible]	0.00	[illegible]	39.0	[illegible]	[illegible]	61.73
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	33.11
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 7th Grade Literacy						RV					RV					---	
Female	100						4.17	[illegible]	41.67	[illegible]	[illegible]	0.00	[illegible]	26.7	[illegible]	[illegible]	
Male	100						0	[illegible]	45.83	[illegible]	[illegible]	0.00	[illegible]	45.0	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

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Lafayette County School District - 3704000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Advanced	2012-2013 Below Basic	Basic	Proficient	Advanced	Advanced	2013-2014 Below Basic	Basic	Proficient	Advanced	Advanced	District AMO
7th Grade Mathematics		Annual Measurable Objective (AMO) 68.40					2013 AMO 71.28										
Combined Population	100						12.5		52.08			14.0		30.0			74.15
TAGG	100						13.16		57.89			17.1		31.7			72.87
African American	100						12.5		59.38			21.9		21.9			69.95
Hispanic	RV						RV		RV			RV		RV			100.00
Caucasian	100						6.67		40			0.00		43.8			80.32
Economically Disadvantaged	100						13.16		57.89			17.1		31.7			73.24
Students with Disabilities	RV						RV		RV			RV		RV			40.79
Limited English Proficient	RV						RV		RV			RV		RV			
Female	100						4.17		54.17			10.0		26.7			
Male	100						20.83		50			20.0		35.0			
Migrant	RV						RV		RV			RV		RV			
7th Grade Science																	
Combined Population	100						58.25		8.33			44.0		14.0			
TAGG	100						63.16		2.63			48.8		9.76			
African American	100						65.62		0			56.3		9.38			
Hispanic	RV						RV		RV			RV		RV			
Caucasian	100						40		26.67			25.0		25.0			
Economically Disadvantaged	100						63.16		2.63			48.8		9.76			
Students with Disabilities	RV						RV		RV			RV		RV			
Limited English Proficient	RV						RV		RV			RV		RV			
Female	100						62.5		8.33			33.3		23.3			
Male	100						50		8.33			60.0		0.00			
Migrant	RV						RV		RV			RV		RV			

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Spring Hill School District - 2906000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Basic	2011-2012 Proficient	2011-2012 Advanced	2011-2012 Advanced	2012-2013 Below Basic	2012-2013 Basic	2012-2013 Proficient	2012-2013 Advanced	2012-2013 Advanced	2013-2014 Below Basic	2013-2014 Basic	2013-2014 Proficient	2013-2014 Advanced	2013-2014 Advanced	District
3rd Grade Literacy		Annual Measurable Objective (AMO) 87.82							2013 AMO 88.93								AMO
Combined Population	100						3.45	0	3.45	93.1	96.6	3.03	0.00	12.1	84.8	96.9	90.03
TAGG	100						5.88	0	5.88	91.2	94.1	5.56	0.00	22.2	72.2	94.4	86.37
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	81.25
Caucasian	100						0	0	4.55	95.5	100	0.00	0.00	15.4	84.6	100	90.30
Economically Disadvantaged	100						6.25	0	6.25	87.5	93.8	0.00	0.00	25.0	75.0	100	87.41
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	39.06
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 3rd Grade Literacy						RV					RV					—	
Female	100						6.67	0	6.67	86.7	93.3	0.00	0.00	5.00	95.0	100	
Male	100						0	0	0	100	100	7.69	0.00	23.1	69.2	92.3	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
3rd Grade Mathematics		Annual Measurable Objective (AMO) 89.82							2013 AMO 90.74								AMO
Combined Population	100						0	0	6.9	93.1	100	3.03	3.03	6.06	87.9	93.9	91.67
TAGG	100						0	0.00	11.76	88.2	100	5.56	5.56	11.1	77.8	88.9	88.11
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	87.50
Caucasian	100						0	0	0	100	100	0.00	0.00	7.69	88.5	92.3	92.23
Economically Disadvantaged	100						0	0.00	12.5	87.5	100	0.00	6.25	12.5	81.3	93.8	88.21
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	62.50
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Female	100						0	0.00	6.67	93.3	100	0.00	0.00	5.00	95.0	100	
Male	100						0	0	7.14	92.9	100	7.69	0.00	7.69	84.6	92.3	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

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Spring Hill School District - 2906000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Total Advanced	2012-2013 Below Basic	Basic	Proficient	Advanced	Total Advanced	2013-2014 Below Basic	Basic	Proficient	Advanced	Total Advanced	District
6th Grade Mathematics		Annual Measurable Objective (AMO)				89.82				2013 AMO	90.74						AMO
Combined Population	97.8						6.67	13.33	35.56	[illegible]	[illegible]	4.55	[illegible]	29.5	[illegible]	[illegible]	91.67
TAGG	100						6.9	[illegible]	44.83	[illegible]	[illegible]	9.09	[illegible]	31.8	[illegible]	[illegible]	88.11
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	87.50
Caucasian	97.4						5.13	[illegible]	35.9	[illegible]	[illegible]	5.26	[illegible]	26.3	[illegible]	[illegible]	92.23
Economically Disadvantaged	100						6.9	[illegible]	44.83	[illegible]	[illegible]	9.52	[illegible]	33.3	[illegible]	[illegible]	88.21
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	62.50
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	75.00
Female	100						4.35	[illegible]	39.13	[illegible]	[illegible]	4.55	[illegible]	22.7	[illegible]	[illegible]	
Male	95.7						9.09	[illegible]	31.82	[illegible]	[illegible]	4.55	[illegible]	36.4	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Literacy		Annual Measurable Objective (AMO)				87.82				2013 AMO	88.93						AMO
Combined Population	100						0	[illegible]	32.61	[illegible]	[illegible]	2.17	[illegible]	41.3	[illegible]	[illegible]	90.03
TAGG	100						0	[illegible]	32	[illegible]	[illegible]	0.00	[illegible]	44.0	[illegible]	[illegible]	86.37
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	[illegible]	RV	[illegible]	[illegible]	RV	RV	RV	RV	RV	81.25
Caucasian	100						0	[illegible]	31.82	[illegible]	[illegible]	2.44	[illegible]	39.0	[illegible]	[illegible]	90.30
Economically Disadvantaged	100						0	[illegible]	32	[illegible]	[illegible]	0.00	[illegible]	45.8	[illegible]	[illegible]	87.41
Students with Disabilities	RV						RV	[illegible]	RV	[illegible]	[illegible]	RV	RV	RV	RV	RV	39.06
Limited English Proficient	RV						RV	[illegible]	RV	[illegible]	[illegible]	RV	RV	RV	RV	RV	50.00
Number of recently arrived LEP students not assessed in 7th Grade Literacy						RV					RV					—	
Female	100						0	[illegible]	34.62	[illegible]	[illegible]	9.00	[illegible]	34.8	[illegible]	[illegible]	
Male	100						0	[illegible]	30	[illegible]	[illegible]	4.35	[illegible]	47.8	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

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Spring Hill School District - 2906000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Advanced	2012-2013 Below Basic	Basic	Proficient	Advanced	Advanced	2013-2014 Below Basic	Basic	Proficient	Advanced	Advanced	District AMO
7th Grade Mathematics		Annual Measurable Objective (AMO) 89.82					2013 AMO 90.74										
Combined Population	100						13.04	41.74	28.26	16.96	0.26	15.2	41.1	39.1	4.6	0.0	91.67
TAGG	100						16	40	32	8	0	20.0	56.0	24.0	0.0	0.0	88.11
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	87.50
Caucasian	100						11.36	37.12	27.27	18.94	5.30	12.2	48.8	39.0	0.0	0.0	92.23
Economically Disadvantaged	100						16	40	32	8	4	16.7	58.3	25.0	0.0	0.0	88.21
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	62.50
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	75.00
Female	100						7.69	15.38	38.46	23.08	15.38	8.70	56.5	34.8	0.0	0.0	
Male	100						20	35	15	20	10	21.7	17.4	43.5	17.4	0.0	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Science																	
Combined Population	100						10.87	15.22	32.61	19.57	21.74	19.6	34.8	41.3	4.35	0.0	
TAGG	100						16	40	24	12	8	24.0	28.0	40.0	8.0	0.0	
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Caucasian	100						11.36	29.55	34.09	19.70	5.30	19.5	34	43.9	2.4	0.0	
Economically Disadvantaged	100						16	40	24	12	8	20.8	29.2	41.7	8.3	0.0	
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Female	100						11.54	30.77	30.77	19.23	7.69	21.7	43.5	34.8	0.0	0.0	
Male	100						10	35	35	15	5	17.4	30.4	47.8	0.0	4.3	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

Download 2012 School Report Card for 2012 Benchmark Results

Fax Cover Letter

To: Jeremy Lasiter and Kendra Clay

Fax # 501-682-1079

From: Mike and Angie Vickers

Tommy and Connie Dean

Harley and Holly Tatom

Chad and Marcy Teague

[redacted]

Re: School Choice Materials For Appeal Hearing

Number of Pages (including cover sheet) 11

Date: 6/18/15

Comments: Please include all copies as additional materials to be viewed for Lafayette County Parents School Choice Appeal scheduled for July 9, 2015.

May 13, 2015

Office of the Commissioner

ATTN: Arkansas Public School Choice Act Appeals

Four Capitol Mall

Little Rock, AR 72201

To whom it may concern:

My name is Marcy Teague. I am writing you on behalf of myself and my husband, Chad Teague. We applied for our children (K[redacted] and [redacted] Teague) to be accepted into Taylor School in Taylor Arkansas using the School Choice Act. We currently reside in Stamps, AR which is in Lafayette County. We were denied admission because Lafayette County School District has declared exemption from the Public School Choice Act of 2015 due to the provisions of a desegregation order. I believe this order for Lafayette County should be thrown out due to the fact that the order was enforced under Lewisville School district which was dissolved in 2003. At that time Lewisville School District consolidated with Stamps School District, which is now Lafayette County School District. It was placed in order under Lewisville School District, now Lafayette County School District. I would appreciate any involvement on your part in determining its legality.

We as our children's parents only want the best education, safety, and discipline our children can receive. It is my top priority. I do not believe these demands can be met at the Lafayette County School District. I am basing my beliefs on facts. My school of choice (Taylor School) has a proven track record. Based on the last 3 years, Taylor School has ranked in the top 25 out of 247 school districts. Lafayette County has been at the bottom, ranking 219, 216, and 209 out of the same 247 districts in the last 3 years. Lafayette County has had several reported teacher/student molestation occurrences along with reported illegal drug activity on school campus. We instill stability, respect with accountability and discipline in our home and expect the same in our schools. I believe these traits can be enforced in Taylor Schools and not in the Lafayette County School District.

I am asking that this desegregation order that Lafayette County School District is using to opt of the Public School Choice Act of 2015 be dismissed based on the fact that the order was enforced under the Lewisville School District which no longer exists. I am also requesting a hearing if further appealing is needed to get my girls in my school of choice.

Sincerely,

Chad and Marcy Teague

COPY

To Whom It May Concern,

May 18, 2015

My name is Tommy Dean, and I am writing on behalf of myself and my wife, Connie Dean. We have lived in Lafayette County for 50+ years. We applied for the Public School Choice Act of 2015 for our 11 year old daughter to attend Spring Hill School District. Unfortunately, we were rejected by Spring Hill School District, due to Lafayette County School District filing a 1992 Desegregation Order with the Arkansas Department of Education. However, the 1992 Desegregation Order was filed for the Lewisville School District NOT Lafayette County School District. Lewisville/Stamps School Districts were consolidated in July 2003. Therefore, in 1992 (the year the Desegregation Order was created) the Lafayette School District was not in existence. Our question, as CONCERNED parents, is: HOW CAN A 1992 LEWISVILLE DESEGREGATION ORDER BE RECOGNIZED AS SUBMISSABLE TO THE ARKANSAS DEPARTMENT OF EDUCATION FOR LAFAYETTE SCHOOL DISTRICT? I have read the Desegregation Order, and to the best of my knowledge, it is concerning the discrimination of Lewisville School District faculty and employees, not the discrimination involving students. My wife and I feel it is our right to appeal the decision for the betterment of our daughter's education and well-being. I have done much research and found Lafayette County School District (resident school district) test scores and rankings, per websites, are not comparable to Spring Hill School District (non-resident school district). This is one of the reasons we are requesting that our daughter attend Spring Hill School District for the 2015-2016 school year and upcoming school years. The non-resident school district, Spring Hill School District, not only is achieving academically, but also, has outstanding parental involvement, a variety of extra-curriculum activities, which are supported by the students, faculty, administration, parents, and community. Also, safety/discipline issues are handled efficiently and diligently.

My wife and I do not want our daughter to attend a school that we have to worry about her safety or education. Lafayette County School District has many safety/discipline issues ranging from gangs, bullying, drugs and school employees having sexual misconduct acts with students. We have knowledge of at least 3 cases of school employees having criminal charges filed against them for sexual misconduct acts with students. THIS IS UNACCEPTABLE BEHAVIOR TO US! Furthermore, Lafayette County School District has numerous other issues that need to be reviewed besides academics, safety, and lack of discipline.

COPY

At this time, Tommy and Connie Dean, parents of a minor child, are appealing the rejection letter from Spring Hill School District, because we want the best quality education and a sound foundation of morals and values for our child.

Please accept this letter requesting an appeal hearing for Tommy and Connie Dean to remove our child from our resident school district, Lafayette County School District, to a non-resident school district, Spring Hill School District, under the Public School Choice Act of 2015.

Sincerely,

Tommy and Connie Dean

1127 Lafayette 31

Stamps, AR 71860

870-904-7542 (Tommy's Cell)

870-904-9722 (Connie's Cell)

870-533-4145 (Home after 6 p.m.)

To Whom It May Concern, May 19, 2015

We are Harley and Holly Tatom. We are the parents of three children, a 10 year old daughter, two year old son, and a one month old son. We have lived in Lafayette County for over 20 years. We applied for our daughter to attend Spring Hill School District, a non-resident school district, for 2015-2016 school year. Unfortunately, we received a rejection letter from Spring Hill School District, because Lafayette County School District, our resident school district, opted out of the Public School Choice Act of 2015. My wife and I have researched the rejection decision, and found the decision was based on a 1992 Lewisville School District Desegregation Order. The 1992 Lewisville School District Desegregation Order, based on our findings, is focused on discrimination against teachers and school employees not discrimination against students. Lewisville and Stamps School Districts consolidated in July 2003 to create Lafayette County School District. Therefore, we, Harley and Holly Tatom, are questioning the Desegregation Order Lafayette County School District has filed with the Arkansas Department of Education. How can Lafayette County School District be able to opt out of the Public School Choice Act of 2015 under a 1992 Lewisville School District Desegregation Order, when Lewisville School District hasn't been a school district over 10 years? It appears to us, as parents, Lafayette County School District **DOES NOT** have an **ACTIVE** Desegregation Order filed with the Arkansas Department of Education.

My wife and I filed our Public School Choice Act of 2015 with Spring Hill School District to remove our daughter for educational, safety, and lack of discipline reasons within the Lafayette School District. We went to educational websites to discover Lafayette County School District is ranked much lower than the other school districts in Southwest Arkansas. As for the safety and lack of discipline reasons, we have first- hand experience with these issues. Our daughter has been bullied for the biggest part of this school year. We have called numerous times and made several trips to the school, going thru the proper procedures: speaking to the teacher, principal, and superintendent, still to this day, nothing has been done to STOP THE BULLYING! This is not only lack of discipline, but VERY MUCH a safety issue!

Therefore, Harley and Holly Tatom, parents of minor children, are appealing the decision of the rejection letter from Spring Hill School District, because we, as parents, are striving for a safe environment for our children to have the opportunity to learn and achieve academic excellence.

Please accept this letter requesting an appeal hearing for Harley and Holly Tatom to remove our child from our resident school district, Lafayette County School District, to a non-resident school district, Spring Hill School District, under the Public School Choice Act of 2015.

Sincerely,

Harley and Holly Tatom

531 Lafayette 41

Buckner, AR 71827

870-953-0209 (Harley's Cell)

May 15, 2015

Samuel Ledbetter

Four Capital Mall

Little Rock, AR 72201

Dear Mr. Ledbetter,

I would like to like to introduce myself. My name is Angie Vickers. I am writing on behalf of myself and my husband Mike Vickers. We applied for our children to be able to attend Spring Hill School District in Hope Arkansas using the School Choice Act. We currently live in Buckner, AR which is in Lafayette County. We were denied the option of school choice because Lafayette County School District has declared exemption from the Public School Choice Act of 2015 due to the provisions of a desegregation court order or plan. I personally looked on the Department of Education website and found the letter written from Lafayette County School District's attorney, Allen Roberts, along with the supporting document from a lawsuit that they consider a desegregation lawsuit. I am not a lawyer; however, while looking through the lawsuit it seemed to pertain to employees and the need to make sure people were not being discriminated against in employment at this district- not in discrimination involving students. I also wanted to check on the fact that this lawsuit was from 1992. At that time there was no Lafayette County School District. In searching for information I found the agenda from the State Board of Education dated February 10, 2003 requesting that each original district (Lewisville and Stamps School Districts) form a new district effective July 1, 2003. If this lawsuit is from a time before there ever was a Lafayette County School District, how can it apply to the School Choice Act now and how can Lafayette County School District use it in order to avoid complying with the Act?

There are many reasons that we would like to be able to use the School Choice Act in order to send our children to Spring Hill Schools. First, I am currently a teacher at Spring Hill School. We have a son that is graduating this year and two younger children that attend Spring Hill Elementary. I utterly enjoy teaching at this school district. I plan to teach for many years to come; however, due to some recent health problems I am not sure what the future will hold for me. We would like for our children to be able to continue their education at Spring Hill Schools

in the event that I am no longer able to teach. The reasons for this is that the school community is outstanding, respect with accountability and discipline is part of the school culture, and this is where my children have their roots, memories, and belonging. In today's society stability is a treasure. We want the stability of our children to remain intact. They are thriving at Spring Hill Schools! Next, the school ranking of Lafayette County Schools compared to Spring Hill Schools concerns me as far as the education that my children would receive. I am basing this on the districts report cards. Next year for example our son will be in third grade and our daughter will be in seventh grade. The AMO reported for third grade literacy and math for Lafayette County is 63.47/74.15. The AMO reported for the same area for Spring Hill Schools is 90.03/91.67. The AMO reported for seventh grade literacy and math for Lafayette County is 63.47/74.15. The AMO reported for the same area for Spring Hill Schools is 90.03/91.67. The graduation rate shown on the respective reports for Lafayette County Schools is 80.4% and 97.8% for Spring Hill Schools. Finally, the safety of our children is of great concern for us. There have been a few publicized instances concerning employees of Lafayette County Schools that would cause us great concern if our children attended classes there.

In conclusion, **we respectfully ask that we be granted a hearing to reconsider the application**. Thank you very much for your time in reading this letter, and we look forward to your reply.

Sincerely,

Mike and Angie Vickers

pring Hill School District - 2906000

NDICATOR: School Performance

	2011-2012			2012-2013			2013-2014		
	School	District	State	School	District	State	School	District	State
Graduation Rate (*State Goal 85%)									
Graduation Rate Combined		93.8 %	84.1 %		[illegible]	84.9 %		[illegible]	86.9 %
Graduation Rate for Targeted Acheivement Gap Group		[illegible]	79.3 %		[illegible]	80.5 %		[illegible]	82.9 %
Graduation Rate African American		[illegible]	78.1 %		[illegible]	78.1 %		[illegible]	81.0 %
Graduation Rate Hispanic		100.0 %	78.0 %		[illegible]	81.8 %		[illegible]	84.5 %
Graduation Rate Caucasian		[illegible]	87.0 %		[illegible]	87.8 %		[illegible]	89.3 %
Graduation Rate Economically Disadvantaged		[illegible]	79.1 %		[illegible]	80.3 %		[illegible]	82.7 %
Graduation Rate Students with Disabilities		[illegible]	79.2 %		[illegible]	80.4 %		[illegible]	83.1 %
Graduation Rate Limited English Proficient		[illegible]	77.3 %		[illegible]	80.8 %		[illegible]	84.1 %
Grade Inflation Rate		[illegible]	—		[illegible]	2.51 %		[illegible]	7 %
College Remediation Rate		[illegible]	49.4 %		[illegible]	43.0 %		[illegible]	45.4 %
Enrollment									
October 1 Enrollment		[illegible]	468,656		[illegible]	471,867		[illegible]	474,995

IDICATOR: School Performance

	2011-2012			2012-2013			2013-2014		
	School	District	State	School	District	State	School	District	State
raduation Rate (*State Goal 85%)									
aduation Rate Combined	82.6 %	[illegible]	84.1 %	96.9 %	[illegible]	84.9 %	100.0 %	[illegible]	86.9 %
radvation Rate for Targeted Acheivement Gap Group	70.0 %	[illegible]	79.3 %	88.9 %	[illegible]	80.5 %	100.0 %	[illegible]	82.9 %
raduation Rate African American	66.7 %	[illegible]	78.1 %	100.0 %	[illegible]	78.1 %	100.0 %	[illegible]	81.0 %
raduation Rate Hispanic	0.0 %	[illegible]	78.0 %	0.0 %	[illegible]	81.8 %	0.0 %	[illegible]	84.5 %
raduation Rate Caucasian	85.0 %	[illegible]	87.0 %	96.3 %	[illegible]	87.6 %	100.0 %	[illegible]	89.3 %
raduation Rate Economically Disadvantaged	79.0 %	[illegible]	79.1 %	68.9 %	[illegible]	80.3 %	100.0 %	[illegible]	82.7 %
raduation Rate Students with Disabilities	50.0 %	[illegible]	79.2 %	0.0 %	[illegible]	80.4 %	100.0 %	[illegible]	83.1 %
raduation Rate Limited English Proficient	0.0 %	[illegible]	77.3 %	0.0 %	[illegible]	80.8 %	0.0 %	[illegible]	84.1 %
rade Inflation Rate	—	[illegible]	—	0 %	[illegible]	2.51 %	0 %	[illegible]	7 %
ollege Remediation Rate	—	[illegible]	49.4 %	26.3 %	[illegible]	43.0 %	55.6 %	[illegible]	45.4 %
nrollment									
ctober 1 Enrollment	152	[illegible]	468,656	149	[illegible]	471,867	144	970	474,995

RECEIVED 06-18-'15 22:24 FROM- TO- ADE Commisioner P0010/0011

Lafayette County School District - 3704000

INDICATOR: School Performance

	2011-2012			2012-2013			2013-2014		
	School	District	State	School	District	State	School	District	State
Graduation Rate (*State Goal 85%)									
Graduation Rate Combined		[illegible]	84.1 %		[illegible]	84.9 %		[illegible]	86.9 %
Graduation Rate for Targeted Achievement Gap Group		[illegible]	79.3 %		[illegible]	80.5 %		[illegible]	82.9 %
Graduation Rate African American		[illegible]	78.1 %		[illegible]	78.1 %		[illegible]	81.0 %
Graduation Rate Hispanic		[illegible]	78.0 %		[illegible]	81.8 %		100.0 %	84.5 %
Graduation Rate Caucasian		[illegible]	87.0 %		[illegible]	87.6 %		[illegible]	89.3 %
Graduation Rate Economically Disadvantaged		[illegible]	79.1 %		[illegible]	80.3 %		[illegible]	82.7 %
Graduation Rate Students with Disabilities		[illegible]	79.2 %		[illegible]	80.4 %		100.0 %	83.1 %
Graduation Rate Limited English Proficient		[illegible]	77.3 %		[illegible]	80.8 %		0.0 %	84.1 %
Grade Inflation Rate		[illegible]	---		[illegible]	2.51 %		[illegible]	7 %
College Remediation Rate		[illegible]	49.4 %		[illegible]	43.0 %		[illegible]	45.4 %
Enrollment									
October 1 Enrollment		[illegible]	488,656		[illegible]	471,867		[illegible]	474,995

RECEIVED 06-18-'15 22:24 FROM- TO- ADE Commisioner P0011/0011

RESPONSE

SPRING HILL SCHOOL DISTRICT
633 HWY 355 WEST
HOPE, AR 71801

Angie Raney, Superintendent
Office #870-777-8236
FAX #870-777-9200
E-Mail: angie.raney@springhill.k12.ar.us

RECEIVED
COMMISSIONER'S OFFICE
MAY 27 2015
DEPARTMENT OF EDUCATION

May 22, 2015

Mr. Johnny Key
Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, Arkansas 72201

Dear Mr. Key: .

This letter is written in response to the email notification from Jeremy Lasiter dated May 19, 2015 regarding an appeal from the Vicker's family due to the denial of their school choice application to our district.

According to Public School Choice Act of 2015, nonresident school districts have no choice but to deny school choice applications when said resident district has filed appropriate paperwork regarding a desegregation order to Arkansas Department of Education. Due to this reason, the Spring Hill School District denied the school choice applications turned in by the Vicker's Family who were applying for school choice from the Lafayette County School District.

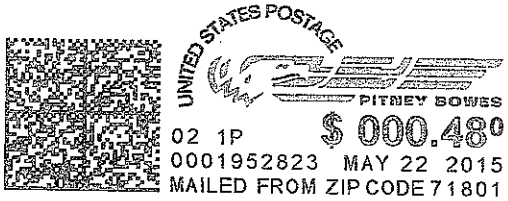
If this matter needs further attention from our school district, please let me know.

Sincerely,

Angie Raney, Superintendent

RECEIVED
ATTORNEY'S OFFICE
MAY 27 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

Spring Hill School District No. 10
633 Highway 355 West
Hope, Arkansas 71801



Mr. Johnny Key
Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

72201$1013

FUQUA CAMPBELL, P.A.

ATTORNEYS AT LAW

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J. BLAKE HENDRIX
ABBIE DECKER RUCKER
PATRICK L. SPIVEY
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870.932.2177

Direct Dial: (501) 975-7122
Email: wmoore@fc-lawyers.com

June 19, 2015

VIA HAND-DELIVERY
Mr. Jeremy Lasiter
Attn: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, Arkansas 72201

Re: Lafayette County School District (Resident District)
Spring Hill School District (Non-Resident District)
Public School Choice Act of 2015 Appeals submitted by the Dean, Tatom, and Vickers families

Dear Mr. Lasiter:

Allen Roberts and I represent Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003.

LCSD is the resident district involved in the aforementioned Public School Choice Act of 2015 appeals filed by the Dean, Tatom, and Vickers families, all of whom applied for transfer to Spring Hill School District (SHSD). SHSD correctly denied all of the transfer requests based on LCSD's declaration of a conflict pursuant to Ark. Code Ann. 6-18-1906(a). In compliance with Ark. Code Ann. 6-13-113(b) and 6-18-1906(a)(2), LCSD has submitted to the Department of Education a copy of the consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div., which is a desegregation court order that conflicts with LCSD's participation in school choice.

Pursuant to your notice of hearing letter dated June 3, 2015, I would like to submit the following materials for consideration at the State Board of Education's July 9, 2015 meeting:

1. The resolution adopted by LCSD's board regarding LCSD's decision not to participate in school choice (**Exhibit 1**).
2. The April 21, 2015 letter from Allen Roberts regarding LCSD's decision not to participate in school choice (**Exhibit 2**).
3. The March 4, 1993 consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div (**Exhibit 3**).
4. Former Attorney General Mike Beebe's September 24, 2003 opinion regarding the State Board of Education's authority to construe court orders (**Exhibit 4**).
5. A power of attorney signed by Gary and Connie Dean granting consent and permission to Wayne and/or Elsie Halbert regarding educational decisions for the Deans' minor child (**Exhibit 5**).

The appeals question the validity of the order in *Turner*. There is no indication from the 2015 Act (nor from its predecessor, the Public School Choice act of 2013) that the legislature intended for the State Board of Education to review the propriety of a conflict claimed by a district pursuant to Ark. Code Ann. 6-18-1906(a). There is no provision in the Act that authorizes the Department or the State Board to approve or deny a district's submission. The Act only provides opportunity for a district to claim a conflict and provide the Department of Education with a copy of the conflicting order, which LCSD has done.

An Attorney General's opinion issued in 2003 regarding the School Choice Act of 1989 directly addresses the question of whether the State Board should review and interpret federal court orders. On September 24, 2003, the Attorney General's office wrote to then ADE director, Ray Simon, in Opinion No. 2003-269. Mr. Simon had asked whether or not the State Board of Education had the legal authority to decide whether a district could accept students outside the parameters of the 1989 Act "as long as the district is in compliance with the requirements of the assumed U.S. District Court Order?" (Exhibit 4, p. 2). Attorney General Beebe makes clear in the opinion that the State Board of Education should not seek to interpret federal court orders, stating:

> In my opinion the state Board of Education does not have authority to determine that a school district 'is in compliance with the Arkansas School Choice Act' where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision.

The opinion concludes with the note that disputes involving construction of federal court orders are properly left to the parties themselves, their respective counsels, or if necessary, to the issuing court itself. (Exhibit 4, p. 5).

The *Turner* case was filed by a black staff member and black parents of children attending Lewisville School District. (Exhibit 3, p. 1). Paragraph 4 of the decree specifically references "racial discrimination in . . . student assignment." (Exhibit 3, p. 2). Paragraphs 2 and 3 also address discrimination against students on the basis of race. (Exhibit 3, p. 2). Paragraph 12 requires the desegregation of all classes, programs, and activities offered by the district. (Exhibit 3, p. 5). The consent decree concludes by stating, in paragraph 18, that "the Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." (Exhibit 3, p. 6). As noted by Mr. Roberts in Exhibit 2, the desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (i.e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding. To the best of LCSD's knowledge, this is the last order entered in the case. There are no orders dismissing the case or declaring that LCSD is unitary.

The structure of the Act also strongly suggests that the assertion of a conflict is not appealable because there is no provision in either the Act or the emergency rules that the resident district do anything when the non-resident district denies the application. This logically should mean that appeals are limited to issues such as enrollment caps and capacity issues. The applications were denied solely due to LCSD's conflict, not due to capacity or enrollment caps.

The Act also lacks any provision for the resident district to be heard as a party on appeal. If an appeal of the asserted conflict was contemplated, then party status would have been accorded the resident district. Because it was not, consideration of an appeal on those grounds without providing for party status for the resident district would result in a denial of procedural and substantive due process to the resident district.

The appeals state various reasons why these families would like to leave LCSD and enroll their children in SHSD. However, none of those reasons override the federal court order presented by LCSD, as permitted by the Act.

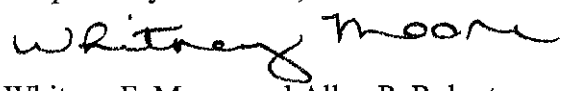
With respect to the appeal of Gary and Connie Dean, the Deans previously provided LCSD with a copy of a power of attorney executed May 13, 2014. The power of attorney was provided to LCSD as the basis for the Deans' child to attend SHSD. The Deans expressly revoked their right to make "enrollment" and "admission" decisions for the child and ceded those rights to Wayne and/or Elsie Halbert, who are not parties to this appeal. There is no indication that the power of attorney has been revoked. For these reasons, the Deans' appeal should be denied because they did not have the authority to apply for a school choice transfer.

With respect to the appeal of Mike and Angie Vickers, the Vickers children are already enrolled in SHSD, pursuant to Ark. Code Ann. 6-18-203, which allows a non-resident school employee to enroll her children in the non-resident/employer district.

LCSD does not contest the legality of the Vickers children's attendance at SHSD based on the employment of their mother. However, LCSD submits that a school choice application is premature and not ripe for the Board's consideration in light of their present enrollment in SHSD pursuant to their mother's employment with SHSD.

For the foregoing reasons, the Dean, Tatom, and Vickers appeals should be denied. We appreciate your consideration of this response and request an opportunity to be heard at the hearing.

Respectfully submitted,



Whitney F. Moore and Allen P. Roberts
Attorneys for Lafayette County School District

cc: Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Allen P. Roberts
Allen P. Roberts, P.A.
P.O. Box 280
Camden, AR 71711

Angie Raney, Superintendent
Spring Hill School District
633 Highway 355 West
Hope, AR 71801

Tommy and Connie Dean
1127 Lafayette 21
Stamps, AR 71860

Harley and Holly Tatom
531 Lafayette 41
Buckner, AR 71827

Mike and Angie Vickers
356 Lafayette 43
Buckner, AR 71827

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 1

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (*i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

EXHIBIT 2

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District

Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

EXHIBIT 3

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

EXHIBIT 3

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

EXHIBIT 3

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

EXHIBIT 3

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

EXHIBIT 3

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

EXHIBIT 3

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72014
LASER, SHARP, MAYES, WILSON, BUFFORD
& WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP.

on _____ by _____

EXHIBIT 3

Opinion No. 2003-269

September 24, 2003

Mr. Raymond Simon, Director
Arkansas Department of Education
#4 Capitol Mall
Little Rock, Arkansas 72201-1071

Dear Mr. Simon:

I am writing in response to your request for an opinion on several questions relating to the "Arkansas Public School Choice Act of 1989," as amended. Specifically, you pose the following questions, which I have numbered below:

1. Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

2. In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

3. Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance

EXHIBIT 4

> with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

RESPONSE

I cannot provide an answer to your first and second questions, because the answer will depend upon the provisions of the applicable U.S. District Court order. In my opinion the answer to your third question is "no," the State Board of Education does not have this authority.

Question 1-- Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

Question 2-- In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

The "Arkansas Public School Choice Act of 1989" is codified at A.C.A. § 6-18-206. It has been amended several times since its original adoption, most recently by Act 1272 of 2003. This most recent act requires all school districts to participate in public school choice, rather than making such participation optional with each school board, as under prior law. The applicable statute sets out a procedure for a student or his or her parent or guardian to make application for a transfer of school districts. The statute also sets out, among other things, requirements pertaining to student transportation and the treatment of "state equalization aid" with regard to transferring students. Subsection (f) of the statute, which you reference in your request, provides as follows:

> (f) The provisions of this section and all student choice options created in this section are subject to the following limitations:
>
> (1) No student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that

percentage in the student's resident district except in the circumstances set forth in subdivisions (2) and (4) of this subsection;

(2) A transfer to a district is exempt from the restriction set forth in subdivision (f)(1) of this section if the transfer is between two (2) districts within a county, and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and non-resident district remain within an acceptable range of the county's overall minority percentage in the student's race and majority percentages of school population as set forth by the department;

(3) The department shall, by the filing deadline each year, compute the minority percentage in the student's race and majority percentages of each county's public school population from the October Annual School Report and shall then compute the acceptable range of variance from those percentages for school districts within each county. In establishing the acceptable range of variance, the department is directed to use the remedial guideline established in Little Rock School District v. Pulaski County Special School District of allowing an overrepresentation or underrepresentation of black or white students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance. In establishing the acceptable range of variance for school choice, the department is directed to use the remedial guideline of allowing an overrepresentation or underrepresentation of minority or majority students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance;

(4) A transfer is exempt from the restriction set forth in subdivision (f)(1) of this section if each school district within the county does not have a critical mass of minority percentage in the student's race students of more than ten percent (10%) of any single race;

(5) *In any instance where the foregoing provisions would result in a conflict with a desegregation court order or a district's court-*

> *approved desegregation plan, the terms of the order or plan shall govern;*
>
> (6) The department shall adopt appropriate rules and regulations to implement the provisions of this section; and
>
> (7) The department shall monitor school districts for compliance with this section.

A.C.A. § 6-18-206 (f), as amended by Act 1272 of 2003 (emphasis added).

The emphasized language of subsection (f)(5) above provides for the supremacy of a desegregation orders or court-approved desegregation plans in the case of a "conflict" between such orders and plans, on the one hand, and the "foregoing" provisions of A.C.A. § 6-18-206(f), which outline racial limitations and exceptions on transfers. Conceivably, therefore, a federal court order could, depending upon its provisions, have controlling effect over the provisions of A.C.A. § 6-18-206(f). The question in each instance will be whether the statutory provisions above actually conflict with any such a federal court order. Resolution of that type of question will depend upon the provisions of the order in question and any and all other pertinent facts and laws. I cannot determine this issue in the context of an official Attorney General opinion. As one of my predecessors stated in Op. Att'y Gen. 95-066:

> The construction of such [federal court] orders and agreements is best left to the parties themselves, or ultimately to the federal court. This office has not been provided with a copy of any federal court order or settlement agreement, and cannot, in the context of an official opinion of the Attorney General, especially where the state is not a party, presume to dictate actions to be taken under the rubric of such documents.

Id. at 2. *See also* Op. Att'y Gen. 94-139 (declining to interpret a federal court order and stating that "reference to th[e] particular court order, and possibly clarification from the federal court, would be necessary to resolve the issue conclusively).

I am therefore unable to render an opinion on your first and second questions above.

EXHIBIT 4

Question 3-- Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

Subsection (g) of A.C.A. § 6-18-206 provides that: "[t]he state board shall be authorized to resolve disputes arising under subsections (b) – (f) of this section."

In my opinion the State Board of Education does not have authority to determine that a school district "is in compliance with the Arkansas School Choice Act" where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision. *Cf. State Police v. McCall*, 98 A.D.2d 921, 470 N.Y.S.2d 916 (1983) ("State Human Rights Appeal Board" (a state administrative agency), did not exceed its jurisdiction in construing federal district court order, but only because its decision was supported by other documentary proof and board did not base its decision solely on an interpretation of federal court order).

Disputes involving construction of federal court orders are properly left to the parties thereto, and their respective counsels, or if necessary, to the issuing court itself.

Deputy Attorney General Elana C. Wills prepared the foregoing opinion, which I hereby approve.

Sincerely,

MIKE BEEBE
Attorney General

MB:ECW/cyh

EXHIBIT 4

POWER OF ATTORNEY FOR MINOR

TO ALL WHOM THESE PRESENTS ARE KNOWN:

That We, Gary T. Dean, Jr. and/or Connie A. Dean, of LAFAYETTE County, Arkansas, being the natural Father and Mother of [redacted] Dean, [hereafter the "child"] appoint Wayne and/or Elsie Halbert of LAFAYETTE County, Arkansas, my true and lawful attorney-in-fact for me and in my name, place and stead and in my behalf, and to do and perform all of the following responsibilities and have all the rights in connection therewith:

1. Perform and act as and for me in a parental capacity as and to the child;
2. Give consent and permission for any kind of medical care and treatment, and to sign any papers to have the child admitted to a hospital for such purpose, or as may be required to maintain the health of the child;
3. Give consent and permission for enrollment in and admission to school and to resolve problems arising from school attendance, and to sign any papers necessary for such purpose or sign other documents relating to the child's welfare at school;
4. Perform any act necessary to obtain relief or aid that might benefit the child;
5. Perform any other acts for support, health, and general care of the child as may be required or necessary.
6. We, Gary T. Dean, Jr. and/or Connie A. Dean, do hereby give and grant to Wayne and/or Elsie Halbert, my said Attorney-in-fact, full power and authority to do and perform any and all acts required to protect and promote the welfare of the child, as fully and for all intents and purposes as I might or could do if I were personally present at the time thereof, hereby ratifying and confirming all that my said Attorneys may or shall lawfully do or cause to be done by virtue of this Power-of-Attorney and the rights and powers herein granted.
7. It is not my intention to relinquish my parental rights in and to my child.

IN TESTIMONY WHEREOF, We have hereunto set our hands this 13th day of May, 2014.

GARY T. DEAN, JR.

CONNIE A. DEAN

870-904-9772

EXHIBIT 5

ASSOCIATED DOCUMENTS

June 5, 2015

Office of the Commissioner

ATTN: Kendra Clay

Four Capital Mall

Little Rock, AR 72201

Dear Ms. Clay,

Per our phone conversation today, June 5, 2015, the parents, who were denied admission into the Spring Hill School District, are requesting one appeal hearing before the Arkansas State Board of Education. We, the parents of Lafayette County School District, were denied by Spring Hill School District on the claim of a desegregation order filed by Lafayette County School District. The parents, who are requesting one appeal hearing before the Arkansas State Board of Education, are as follows:

Tommy and Connie Dean

Mike and Angie Vickers

Harley and Holly Tatom

Thank you in advance for your cooperation on this request.

Sincerely,

Connie Dean

Connie Dean

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.*e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

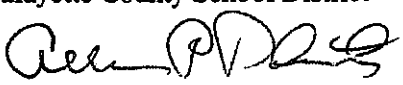
In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District



Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
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Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP,

on _____ by _____

SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection and applies for a school choice transfer under § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(3) A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under subdivision (c)(2) of this section may complete all remaining school years at the nonresident district.

SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to read as follows:

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district ~~with a copy to~~ ,which shall notify the resident district of the filing of the application;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) A nonresident district that receives an application under subsection (a) of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

(c) A nonresident district shall review and make a determination on each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

1 ~~subsection is irrevocable for one (1) year from the date the school district~~
2 ~~notifies the Department of Education of the declaration of exemption.~~
3 ~~(B) After each year of exemption, the board of directors~~
4 ~~may elect to participate in public school choice under this section if the~~
5 ~~school district's participation does not conflict with the school district's~~
6 ~~federal court-ordered desegregation program.~~
7 ~~(3) A school district shall notify the department by April 1 if~~
8 ~~in the next school year the school district intends to:~~
9 ~~(A) Declare an exemption under this section; or~~
10 ~~(B) Resume participation after a period of exemption.~~
11 ~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit
12 on school choice transfers each school year from a school district, less any
13 school choice transfers into the school district, under this section of not
14 *more than three percent (3%) of the* ~~*school district's three-quarter average*~~
15 ~~*daily membership for the*~~ *enrollment that exists in the school district as of*
16 *October 15 of the immediately preceding school year.*
17 (B) For the purpose of determining the percentage of school
18 choice transfers under this subsection, siblings who are counted in the
19 numerator as transfer students shall count as one (1) student~~, and siblings~~
20 ~~who are counted in the denominator as part of the average daily membership~~
21 ~~shall count as one (1) student~~.
22 (C) A student eligible to transfer to a nonresident
23 district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count
24 against the cap of three percent (3%) of the resident or nonresident
25 district.
26 (2) Annually by ~~June 1~~ *December 15*, the department shall report
27 to each school district the net maximum number of school choice transfers for
28 the ~~current~~ next school year.
29 (3) If a student is unable to transfer due to the limits under
30 this subsection, the resident district shall give the student priority for a
31 transfer in the ~~following~~ first school year in which the district is no
32 longer subject to subdivision § (b)(1) of this section in the order that the
33 resident district receives notices of applications under § 6-18-1905, as
34 evidenced by a notation made by the district on the applications indicating
35 date and time of receipt.
36

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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A.C.A. § 6-18-1901

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A.C.A. § 6-18-1901

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*** through December 12, 2014. ***

Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1902

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904

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A.C.A. § 6-18-1905

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1906

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1907

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY				
Date and Time Received by Resident District:			Date and Time Received by Nonresident District:	
Resident District LEA #:			Nonresident District LEA#:	
Student's State Identification #:				
Application	Accepted		Rejected	
Reason for Rejection (If Applicable):				
Date Notification Sent to Parent/Guardian of Applicant:				
Date Notification Sent to Resident District :				

HEARING PROCEDURES

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

June 3, 2015

Tommy and Connie Dean
[redacted]
Stamps, AR 71860

Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Angie Raney, Superintendent
Spring Hill School District
633 Highway 355 West
Hope, AR 71801

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is tentatively scheduled to hear the above-referenced appeal(s) on **Thursday, July 9, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on June 19, 2015**.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

/signed/

Jeremy C. Lasiter
General Counsel

cc: Mr. Johnny Key, Commissioner of Education
Ms. Annette Barnes, Asst. Commissioner, Public School Accountability
State Board of Education Office

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

RECEIVED
COMMISSIONER'S OFFICE
MAY 26 2015
DEPARTMENT OF EDUCATION

RECEIVED
ATTORNEY'S OFFICE
MAY 26 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

Dear Mr. Key, May 18, 2015

My name is Tommy Dean, and I am writing you on behalf of myself and my wife, Connie Dean. We have lived in Lafayette County for 50+ years. We applied for the Public School Choice Act of 2015 for our 11 year old daughter to attend Spring Hill School District. Unfortunately, we were rejected by Spring Hill School District, due to Lafayette County School District filing a 1992 Desegregation Order with the Arkansas Department of Education. However, the 1992 Desegregation Order was filed for the Lewisville School District **NOT** Lafayette County School District. Lewisville/Stamps School Districts were consolidated in July 2003. Therefore, in 1992 (the year the Desegregation Order was created) the Lafayette School District was not in existence. Our question, as CONCERNED parents, is: HOW CAN A 1992 LEWISVILLE DESEGREGATION ORDER BE RECOGNIZED AS SUBMISSABLE TO THE ARKANSAS DEPARTMENT OF EDUCATION FOR LAFAYETTE SCHOOL DISTRICT? I have read the Desegregation Order, and to the best of my knowledge, it is concerning the discrimination of Lewisville School District faculty and employees, not the discrimination involving students. My wife and I feel it is our right to appeal the decision for the betterment of our daughter's education and well-being. I have done much research and found Lafayette County School District (resident school district) test scores and rankings, per websites, are not comparable to Spring Hill School District (non-resident school district). This is one of the reasons we are requesting that our daughter attend Spring Hill School District for the 2015-2016 school year and upcoming school years. The non-resident school district, Spring Hill School District, not only is achieving academically, but also, has outstanding parental involvement, a variety of extra-curriculum activities, which are supported by the students, faculty, administration, parents, and community. Also, safety/discipline issues are handled efficiently and diligently.

Mr. Key, my wife and I do not want our daughter to attend a school that we have to worry about her safety or education. Lafayette County School District has many safety/discipline issues ranging from gangs, bullying, drugs and school employees having sexual misconduct acts with students. We have knowledge of at least 3 cases of school employees having criminal charges filed against them for sexual misconduct acts with students. Mr. Key, THIS IS UNACCEPTABLE BEHAVIOR TO US! Furthermore, Lafayette County School District has numerous other issues that need to be reviewed besides academics, safety, and lack of discipline.

At this time, Tommy and Connie Dean, parents of a minor child, are appealing the rejection letter from Spring Hill School District, because we want the best quality education and a sound foundation of morals and values for our child.

Please accept this letter requesting an appeal hearing for Tommy and Connie Dean to remove our child from our resident school district, Lafayette County School District, to a non-resident school district, Spring Hill School District, under the Public School Choice Act of 2015.

Sincerely,

Tommy + Connie Dean

Tommy and Connie Dean

1127 Lafayette 31

Stamps, AR 71860

870-904-7542 (Tommy's Cell)

870-904-9722 (Connie's Cell)

870-533-4145 (Home after 6 p.m.)

SPRING HILL SCHOOL DISTRICT
633 HWY 355 WEST
HOPE, AR 71801

Angie Raney, Superintendent
Office #870-777-8236
FAX #870-777-9200
E-Mail: angie.raney@springhill.k12.ar.us

May 8, 2015

Dear Mrs. Dean:

Thank you for your application for transfer to the Spring Hill School District. We appreciate your interest in our schools. We regret to inform you that we must deny your application for the 2015-16 school year.

The Spring Hill School District is unable to accept your application for transfer at this time, due to the fact that the Lafayette County Public Schools has declared an exemption from the Public School Choice Act of 2015 due to the provisions of a desegregation court order or plan.

If you have any questions, please contact me at 870-777-8236.

Sincerely,

Angie Raney, Superintendent

cc: Resident District

CERTIFIED MAIL™

USA

Gary T. Dean
[redacted]
Stamps, AR 71860-9654

7012 3460 0000 8589 4566

72201

U.S. POSTAGE
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Equality FOREVER

Liberty FOREVER

Johnny Key, Commissioner
Arkansas Department of Education
Tom Capitol Mall, Room 304-A
Little Rock, AR 72201

APPLICATION FOR TRANSFER TO A NON-RESIDENT DISTRICT
"ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"

(Must be submitted to Non-Resident Districts)

APPLICANT INFORMATION

Applicant Name [redacted] Dlan

Date and Time Received by Non-Resident District: 4/9/2015 1:36 PM

Date of Birth [redacted]

Gender Male [ ] Female [✓]

GRADE: 6th (Y-4 15-16)

Does the applicant require special needs or programs? Yes [ ] No [✓]

Is applicant currently under expulsion? Yes [ ] No [✓]

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races [ ]

African American [ ] Asian [ ] Hispanic [ ]

Native American/ Native Alaskan [ ] Native Hawaiian/ Pacific Islander [ ] White [✓]

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name Lafayette County County Name Lafayette

Address

Phone

NON-RESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name Spring Hill School County Name Nevada

Address 633 Hwy 355 W Prescott, AR 71861

Phone 870-887-8236

Does the applicant already have a sibling or step-sibling in attendance in this district?

PARENT OR GUARDIAN INFORMATION OF APPLICANT

Name James D. Connie Dlan Home Phone [redacted]

Address [redacted] Work Phone

Stanley, AR 71861 Cell

Parent/Guardian Signature Connie Dlan Date 4/9/15

Pursuant to standards adopted by a non-resident school board a non-resident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. A school district receiving transfers under the School Choice Act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion or disability. However, a non-resident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Act 560 of 2015 (Public School Choice Act). Priority will be given to applicants with siblings or step-siblings attending the district. The non-resident district shall accept credits toward graduation that were awarded by another district and award a diploma to a non-resident applicant if the applicant meets the non-resident district's graduation requirements. This application must be filed in the non-resident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the non-resident district. Any district receiving this application must retain it in its district records for at least one (1) year from the date it is received, for data verification and general recordkeeping purposes.

DISTRICT USE ONLY

Application Accepted [ ] Rejected [✓]

Date Notification Sent to Parent/Guardian of Applicant 5/8/15

Date Notification Sent to Resident District 5/8/15 [illegible]

Fax Cover Letter

To: Jeremy Lasiter and Kendra Clay

Fax # 501-682-1079

From: Mike and Angie Vickers

Tommy and Connie Dean

Harley and Holly Tatom

Chad and Marcy Teague

[redacted]

Re: School Choice Materials For Appeal Hearing

Number of Pages (including cover sheet) 10

Date: 6/18/15

Comments: Please include all copies as additional materials to be viewed for Lafayette County Parents School Choice Appeal scheduled for July 9, 2015.

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com

Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (*i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

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suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District

Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

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Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

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staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

RECEIVED 06-18-'15 22:09 FROM- TO- ADE Commisioner P0006/0010

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 50%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

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and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

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appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

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December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72013
LASER, SHARP, MAYES, WILSON, BUFFORD
& WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a) and 58, FRCP.

on _____ by _____

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Fax Cover Letter

To: Jeremy Lasiter and Kendra Clay

Fax # 501-682-1079

From: Mike and Angie Vickers

Tommy and Connie Dean

Harley and Holly Tatom

Chad and Marcy Teague

[redacted]

Re: School Choice Materials For Appeal Hearing

Number of Pages (including cover sheet) 9

Date: 6/18/15

Comments: Please include all copies as additional materials to be viewed for Lafayette County Parents School Choice Appeal scheduled for July 9, 2015.

Emerson-Taylor-Bradley School District - 1408000

Taylor Elementary School - 1408018

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Proficient	2012-2013 Below Basic	2012-2013 Proficient	2013-2014 Below Basic	2013-2014 Proficient	School AMO
3rd Grade Literacy		Annual Measurable Objective (AMO) 83.52		2013 AMO 85.02				AMO
Combined Population	100			0	10.53	4.35	39.1	86.52
TAGG	100			RV	RV	9.09	54.5	71.43
African American	RV			RV	RV	RV	RV	50.00
Hispanic	RV			RV	RV	RV	RV	
Caucasian	100			0	10.53	4.55	36.4	87.86
Economically Disadvantaged	100			RV	RV	10.0	50.0	75.68
Students with Disabilities	RV			RV	RV	RV	RV	42.31
Limited English Proficient	RV			RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 3rd Grade Literacy			RV		RV		—	
Female	100			RV	RV	0.00	40.0	
Male	100			0	7.14	7.69	38.5	
Migrant	RV			RV	RV	RV	RV	
3rd Grade Mathematics		Annual Measurable Objective (AMO) 91.76		2013 AMO 92.51				AMO
Combined Population	100			0	47.37	0.00	39.1	93.26
TAGG	100			RV	RV	0.00	36.4	89.28
African American	RV			RV	RV	RV	RV	75.00
Hispanic	RV			RV	RV	RV	RV	
Caucasian	100			0	47.37	0.00	36.4	93.82
Economically Disadvantaged	100			RV	RV	0.00	40.0	89.87
Students with Disabilities	RV			RV	RV	RV	RV	71.16
Limited English Proficient	RV			RV	RV	RV	RV	
Female	100			RV	RV	0.00	40.0	
Male	100			0	36.71	0.00	38.5	
Migrant	RV			RV	RV	RV	RV	

Download 2012 School Report Card for 2012 Benchmark Results

Emerson-Taylor-Bradley School District - 1408000

Taylor High School - 1408019

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Basic	2011-2012 Proficient	2011-2012 Advanced	2012-2013 Below Basic	2012-2013 Basic	2012-2013 Proficient	2012-2013 Advanced	2013-2014 Below Basic	2013-2014 Basic	2013-2014 Proficient	2013-2014 Advanced	School
7th Grade Literacy		Annual Measurable Objective (AMO) 85.45				2013 AMO 86.78								AMO
Combined Population	100					0	[illegible]	41.38	[illegible]	0.00	[illegible]	30.8	[illegible]	88.10
TAGG	100					0	[illegible]	33.33	[illegible]	0.00	[illegible]	50.0	[illegible]	76.00
African American	RV					RV	RV	RV	RV	RV	RV	RV	RV	40.00
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Caucasian	100					0	[illegible]	42.86	[illegible]	0.00	[illegible]	31.8	[illegible]	92.25
Economically Disadvantaged	RV					0	[illegible]	38.46	[illegible]	RV	RV	RV	RV	76.00
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	25.00
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 7th Grade Literacy					RV				RV				—	
Female	100					0	[illegible]	18.18	[illegible]	0.00	[illegible]	23.1	[illegible]	
Male	100					0	[illegible]	55.56	[illegible]	0.00	[illegible]	38.5	[illegible]	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Mathematics		Annual Measurable Objective (AMO) 87.06				2013 AMO 88.23								AMO
Combined Population	100					10.34	[illegible]	44.83	[illegible]	15.4	[illegible]	19.2	[illegible]	89.41
TAGG	100					20	[illegible]	53.33	[illegible]	40.0	[illegible]	30.0	[illegible]	81.25
African American	RV					RV	RV	RV	RV	RV	RV	RV	RV	55.00
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Caucasian	100					10.71	[illegible]	42.86	[illegible]	9.09	[illegible]	13.6	[illegible]	91.56
Economically Disadvantaged	RV					7.69	[illegible]	61.54	[illegible]	RV	RV	RV	RV	81.25
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	25.00
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Female	100					18.18	[illegible]	36.36	[illegible]	23.1	[illegible]	23.1	[illegible]	
Male	100					5.56	[illegible]	50	[illegible]	7.69	[illegible]	15.4	[illegible]	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	

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Lafayette County School District - 3704000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Basic	2011-2012 Proficient	2011-2012 Advanced	2012-2013 Below Basic	2012-2013 Basic	2012-2013 Proficient	2012-2013 Advanced	2013-2014 Below Basic	2013-2014 Basic	2013-2014 Proficient	2013-2014 Advanced	District
3rd Grade Literacy		Annual Measurable Objective (AMO) 55.35						2013 AMO 59.41						AMO
Combined Population	100					10	20	24	46	10.3	15.1	33.3	41.2	63.47
TAGG	100					11.36	22.73	25	40.91	11.8	17.6	35.3	35.3	61.51
African American	100					13.79	24.14	29.69	32.41	16.7	25.9	27.8	29.6	59.25
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	89.28
Caucasian	100					5	25	25	45	5.00	30.00	35.0	30.0	70.12
Economically Disadvantaged	100					11.36	22.73	25	40.91	11.8	17.6	35.3	35.3	81.73
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 3rd Grade Literacy					RV				RV				—	
Female	100					0	15	30	55	6.25	12.5	31.3	50.0	
Male	100					16.67	43.33	20	40	13.0	17.4	34.8	34.8	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	
3rd Grade Mathematics		Annual Measurable Objective (AMO) 68.40						2013 AMO 71.28						AMO
Combined Population	100					6	54	40	60	2.56	20.5	17.9	59.0	74.15
TAGG	100					6.82	52.3	40.91	59.09	2.94	20.6	20.6	55.9	72.87
African American	100					3.45	10.34	41.38	44.83	5.56	22.2	27.8	44.4	69.95
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	100.00
Caucasian	100					10	0	35	55	0.00	20.00	10.0	70.0	80.32
Economically Disadvantaged	100					6.82	52.3	40.91	59.09	2.94	20.6	20.6	55.9	73.24
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Female	100					5	55	35	60	0.00	21.9	18.8	59.3	
Male	100					6.67	43.33	43.33	56.67	4.35	17.4	17.4	60.9	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	

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Lafayette County School District - 3704090

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Advanced 3%	2012-2013 Below Basic	Basic	Proficient	Advanced	Advanced 3%	2013-2014 Below Basic	Basic	Proficient	Advanced	Advanced 3%	District
6th Grade Mathematics		Annual Measurable Objective (AMO) 68.40					2013 AMO 71.28										AMO
Combined Population	100						13.33	[illegible]	22.22	[illegible]	[illegible]	10.5	[illegible]	33.3	[illegible]	[illegible]	74.15
TAGG	100						15.79	[illegible]	23.68	[illegible]	[illegible]	12.0	[illegible]	32.0	[illegible]	[illegible]	72.87
African American	100						18.18	[illegible]	21.21	[illegible]	[illegible]	12.8	[illegible]	30.8	[illegible]	[illegible]	69.95
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	100.00
Caucasian	100						0	[illegible]	30	[illegible]	[illegible]	5.88	[illegible]	35.3	[illegible]	[illegible]	80.32
Economically Disadvantaged	100						15.79	[illegible]	23.68	[illegible]	[illegible]	12.5	[illegible]	31.3	[illegible]	[illegible]	73.24
Students with Disabilities	100						RV	RV	RV	RV	RV	40.0	[illegible]	20.0	[illegible]	[illegible]	40.79
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Female	100						12	[illegible]	16	[illegible]	[illegible]	9.09	[illegible]	33.3	[illegible]	[illegible]	
Male	100						15	[illegible]	30	[illegible]	[illegible]	12.5	[illegible]	33.3	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Literacy		Annual Measurable Objective (AMO) 55.35					2013 AMO 59.41										AMO
Combined Population	100						2.08	[illegible]	43.75	[illegible]	[illegible]	0.00	[illegible]	34.0	[illegible]	[illegible]	63.47
TAGG	100						-2.63	[illegible]	44.74	[illegible]	[illegible]	0.00	[illegible]	39.0	[illegible]	[illegible]	61.51
African American	100						3.12	[illegible]	43.75	[illegible]	[illegible]	0.00	[illegible]	31.3	[illegible]	[illegible]	59.25
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	69.28
Caucasian	100						0	[illegible]	46.67	[illegible]	[illegible]	0.00	[illegible]	31.3	[illegible]	[illegible]	70.12
Economically Disadvantaged	100						2.63	[illegible]	44.74	[illegible]	[illegible]	0.00	[illegible]	39.0	[illegible]	[illegible]	61.73
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	33.11
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 7th Grade Literacy						RV					RV					---	
Female	100						4.17	[illegible]	41.67	[illegible]	[illegible]	0.00	[illegible]	26.7	[illegible]	[illegible]	
Male	100						0	[illegible]	45.83	[illegible]	[illegible]	0.00	[illegible]	45.0	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

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Lafayette County School District - 3704000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Advanced	2012-2013 Below Basic	Basic	Proficient	Advanced	Advanced	2013-2014 Below Basic	Basic	Proficient	Advanced	Advanced	District AMO
7th Grade Mathematics		Annual Measurable Objective (AMO) 68.40					2013 AMO 71.28										
Combined Population	100						12.5		52.08			14.0		30.0			74.15
TAGG	100						13.16		57.89			17.1		31.7			72.87
African American	100						12.5		59.38			21.9		21.9			69.95
Hispanic	RV						RV		RV			RV		RV			100.00
Caucasian	100						6.67		40			0.00		43.8			80.32
Economically Disadvantaged	100						13.16		57.89			17.1		31.7			73.24
Students with Disabilities	RV						RV		RV			RV		RV			40.79
Limited English Proficient	RV						RV		RV			RV		RV			
Female	100						4.17		54.17			10.0		26.7			
Male	100						20.83		50			20.0		35.0			
Migrant	RV						RV		RV			RV		RV			
7th Grade Science																	
Combined Population	100						58.25		8.33			44.0		14.0			
TAGG	100						63.16		2.63			48.8		9.76			
African American	100						65.62		0			56.3		9.38			
Hispanic	RV						RV		RV			RV		RV			
Caucasian	100						40		26.67			25.0		25.0			
Economically Disadvantaged	100						63.16		2.63			48.8		9.76			
Students with Disabilities	RV						RV		RV			RV		RV			
Limited English Proficient	RV						RV		RV			RV		RV			
Female	100						62.5		8.33			33.3		23.3			
Male	100						50		8.33			60.0		0.00			
Migrant	RV						RV		RV			RV		RV			

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Spring Hill School District - 2906000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Basic	2011-2012 Proficient	2011-2012 Advanced	2011-2012 Advanced	2012-2013 Below Basic	2012-2013 Basic	2012-2013 Proficient	2012-2013 Advanced	2012-2013 Advanced	2013-2014 Below Basic	2013-2014 Basic	2013-2014 Proficient	2013-2014 Advanced	2013-2014 Advanced	District
3rd Grade Literacy		Annual Measurable Objective (AMO) 87.82							2013 AMO 88.93								AMO
Combined Population	100						3.45	0	3.45	93.1	96.6	3.03	0.00	12.1	84.8	96.9	90.03
TAGG	100						5.88	0	5.88	91.2	94.1	5.56	0.00	22.2	72.2	94.4	86.37
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	81.25
Caucasian	100						0	0	4.55	95.5	100	0.00	0.00	15.4	84.6	100	90.30
Economically Disadvantaged	100						6.25	0	6.25	87.5	93.8	0.00	0.00	25.0	75.0	100	87.41
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	39.06
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 3rd Grade Literacy						RV					RV					—	
Female	100						6.67	0	6.67	86.7	93.3	0.00	0.00	5.00	95.0	100	
Male	100						0	0	0	100	100	7.69	0.00	23.1	69.2	92.3	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
3rd Grade Mathematics		Annual Measurable Objective (AMO) 89.82							2013 AMO 90.74								AMO
Combined Population	100						0	0	6.9	93.1	100	3.03	3.03	6.06	87.9	93.9	91.67
TAGG	100						0	0.00	11.76	88.2	100	5.56	5.56	11.1	77.8	88.9	88.11
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	87.50
Caucasian	100						0	0	0	100	100	0.00	0.00	7.69	88.5	92.3	92.23
Economically Disadvantaged	100						0	0.00	12.5	87.5	100	0.00	6.25	12.5	81.3	93.8	88.21
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	62.50
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Female	100						0	0.00	6.67	93.3	100	0.00	0.00	5.00	95.0	100	
Male	100						0	0	7.14	92.9	100	7.69	0.00	7.69	84.6	92.3	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

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Spring Hill School District - 2906000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Total Advanced	2012-2013 Below Basic	Basic	Proficient	Advanced	Total Advanced	2013-2014 Below Basic	Basic	Proficient	Advanced	Total Advanced	District
6th Grade Mathematics		Annual Measurable Objective (AMO)				89.82				2013 AMO	90.74						AMO
Combined Population	97.8						6.67	13.33	35.56	[illegible]	[illegible]	4.55	[illegible]	29.5	[illegible]	[illegible]	91.67
TAGG	100						6.9	[illegible]	44.83	[illegible]	[illegible]	9.09	[illegible]	31.8	[illegible]	[illegible]	88.11
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	87.50
Caucasian	97.4						5.13	[illegible]	35.9	[illegible]	[illegible]	5.26	[illegible]	26.3	[illegible]	[illegible]	92.23
Economically Disadvantaged	100						6.9	[illegible]	44.83	[illegible]	[illegible]	9.52	[illegible]	33.3	[illegible]	[illegible]	88.21
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	62.50
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	75.00
Female	100						4.35	[illegible]	39.13	[illegible]	[illegible]	4.55	[illegible]	22.7	[illegible]	[illegible]	
Male	95.7						9.09	[illegible]	31.82	[illegible]	[illegible]	4.55	[illegible]	36.4	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Literacy		Annual Measurable Objective (AMO)				87.82				2013 AMO	88.93						AMO
Combined Population	100						0	[illegible]	32.61	[illegible]	[illegible]	2.17	[illegible]	41.3	[illegible]	[illegible]	90.03
TAGG	100						0	[illegible]	32	[illegible]	[illegible]	0.00	[illegible]	44.0	[illegible]	[illegible]	86.37
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	[illegible]	RV	[illegible]	[illegible]	RV	RV	RV	RV	RV	81.25
Caucasian	100						0	[illegible]	31.82	[illegible]	[illegible]	2.44	[illegible]	39.0	[illegible]	[illegible]	90.30
Economically Disadvantaged	100						0	[illegible]	32	[illegible]	[illegible]	0.00	[illegible]	45.8	[illegible]	[illegible]	87.41
Students with Disabilities	RV						RV	[illegible]	RV	[illegible]	[illegible]	RV	RV	RV	RV	RV	39.06
Limited English Proficient	RV						RV	[illegible]	RV	[illegible]	[illegible]	RV	RV	RV	RV	RV	50.00
Number of recently arrived LEP students not assessed in 7th Grade Literacy						RV					RV					—	
Female	100						0	[illegible]	34.62	[illegible]	[illegible]	9.00	[illegible]	34.8	[illegible]	[illegible]	
Male	100						0	[illegible]	30	[illegible]	[illegible]	4.35	[illegible]	47.8	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

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Spring Hill School District - 2906000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Advanced	2012-2013 Below Basic	Basic	Proficient	Advanced	Advanced	2013-2014 Below Basic	Basic	Proficient	Advanced	Advanced	District AMO
7th Grade Mathematics		Annual Measurable Objective (AMO) 89.82					2013 AMO 90.74										
Combined Population	100						13.04	41.74	28.26	16.96	0.26	15.2	41.1	39.1	4.6	0.0	91.67
TAGG	100						16	40	32	8	0	20.0	56.0	24.0	0.0	0.0	88.11
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	87.50
Caucasian	100						11.36	37.12	27.27	18.94	5.30	12.2	48.8	39.0	0.0	0.0	92.23
Economically Disadvantaged	100						16	40	32	8	4	16.7	58.3	25.0	0.0	0.0	88.21
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	62.50
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	75.00
Female	100						7.69	15.38	38.46	23.08	15.38	8.70	56.5	34.8	0.0	0.0	
Male	100						20	35	15	20	10	21.7	17.4	43.5	17.4	0.0	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Science																	
Combined Population	100						10.87	15.22	32.61	19.57	21.74	19.6	34.8	41.3	4.35	0.0	
TAGG	100						16	40	24	12	8	24.0	28.0	40.0	8.0	0.0	
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Caucasian	100						11.36	29.55	34.09	19.70	5.30	19.5	34	43.9	2.4	0.0	
Economically Disadvantaged	100						16	40	24	12	8	20.8	29.2	41.7	8.3	0.0	
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Female	100						11.54	30.77	30.77	19.23	7.69	21.7	43.5	34.8	0.0	0.0	
Male	100						10	35	35	15	5	17.4	30.4	47.8	0.0	4.3	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

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Fax Cover Letter

To: Jeremy Lasiter and Kendra Clay

Fax # 501-682-1079

From: Mike and Angie Vickers

Tommy and Connie Dean

Harley and Holly Tatom

Chad and Marcy Teague

[redacted]

Re: School Choice Materials For Appeal Hearing

Number of Pages (including cover sheet) 11

Date: 6/18/15

Comments: Please include all copies as additional materials to be viewed for Lafayette County Parents School Choice Appeal scheduled for July 9, 2015.

May 13, 2015

Office of the Commissioner

ATTN: Arkansas Public School Choice Act Appeals

Four Capitol Mall

Little Rock, AR 72201

To whom it may concern:

My name is Marcy Teague. I am writing you on behalf of myself and my husband, Chad Teague. We applied for our children (K[redacted] and [redacted] Teague) to be accepted into Taylor School in Taylor Arkansas using the School Choice Act. We currently reside in Stamps, AR which is in Lafayette County. We were denied admission because Lafayette County School District has declared exemption from the Public School Choice Act of 2015 due to the provisions of a desegregation order. I believe this order for Lafayette County should be thrown out due to the fact that the order was enforced under Lewisville School district which was dissolved in 2003. At that time Lewisville School District consolidated with Stamps School District, which is now Lafayette County School District. It was placed in order under Lewisville School District, now Lafayette County School District. I would appreciate any involvement on your part in determining its legality.

We as our children's parents only want the best education, safety, and discipline our children can receive. It is my top priority. I do not believe these demands can be met at the Lafayette County School District. I am basing my beliefs on facts. My school of choice (Taylor School) has a proven track record. Based on the last 3 years, Taylor School has ranked in the top 25 out of 247 school districts. Lafayette County has been at the bottom, ranking 219, 216, and 209 out of the same 247 districts in the last 3 years. Lafayette County has had several reported teacher/student molestation occurrences along with reported illegal drug activity on school campus. We instill stability, respect with accountability and discipline in our home and expect the same in our schools. I believe these traits can be enforced in Taylor Schools and not in the Lafayette County School District.

I am asking that this desegregation order that Lafayette County School District is using to opt of the Public School Choice Act of 2015 be dismissed based on the fact that the order was enforced under the Lewisville School District which no longer exists. I am also requesting a hearing if further appealing is needed to get my girls in my school of choice.

Sincerely,

Chad and Marcy Teague

COPY

To Whom It May Concern,

May 18, 2015

My name is Tommy Dean, and I am writing on behalf of myself and my wife, Connie Dean. We have lived in Lafayette County for 50+ years. We applied for the Public School Choice Act of 2015 for our 11 year old daughter to attend Spring Hill School District. Unfortunately, we were rejected by Spring Hill School District, due to Lafayette County School District filing a 1992 Desegregation Order with the Arkansas Department of Education. However, the 1992 Desegregation Order was filed for the Lewisville School District NOT Lafayette County School District. Lewisville/Stamps School Districts were consolidated in July 2003. Therefore, in 1992 (the year the Desegregation Order was created) the Lafayette School District was not in existence. Our question, as CONCERNED parents, is: HOW CAN A 1992 LEWISVILLE DESEGREGATION ORDER BE RECOGNIZED AS SUBMISSABLE TO THE ARKANSAS DEPARTMENT OF EDUCATION FOR LAFAYETTE SCHOOL DISTRICT? I have read the Desegregation Order, and to the best of my knowledge, it is concerning the discrimination of Lewisville School District faculty and employees, not the discrimination involving students. My wife and I feel it is our right to appeal the decision for the betterment of our daughter's education and well-being. I have done much research and found Lafayette County School District (resident school district) test scores and rankings, per websites, are not comparable to Spring Hill School District (non-resident school district). This is one of the reasons we are requesting that our daughter attend Spring Hill School District for the 2015-2016 school year and upcoming school years. The non-resident school district, Spring Hill School District, not only is achieving academically, but also, has outstanding parental involvement, a variety of extra-curriculum activities, which are supported by the students, faculty, administration, parents, and community. Also, safety/discipline issues are handled efficiently and diligently.

My wife and I do not want our daughter to attend a school that we have to worry about her safety or education. Lafayette County School District has many safety/discipline issues ranging from gangs, bullying, drugs and school employees having sexual misconduct acts with students. We have knowledge of at least 3 cases of school employees having criminal charges filed against them for sexual misconduct acts with students. THIS IS UNACCEPTABLE BEHAVIOR TO US! Furthermore, Lafayette County School District has numerous other issues that need to be reviewed besides academics, safety, and lack of discipline.

COPY

At this time, Tommy and Connie Dean, parents of a minor child, are appealing the rejection letter from Spring Hill School District, because we want the best quality education and a sound foundation of morals and values for our child.

Please accept this letter requesting an appeal hearing for Tommy and Connie Dean to remove our child from our resident school district, Lafayette County School District, to a non-resident school district, Spring Hill School District, under the Public School Choice Act of 2015.

Sincerely,

Tommy and Connie Dean

1127 Lafayette 31

Stamps, AR 71860

870-904-7542 (Tommy's Cell)

870-904-9722 (Connie's Cell)

870-533-4145 (Home after 6 p.m.)

To Whom It May Concern, May 19, 2015

We are Harley and Holly Tatom. We are the parents of three children, a 10 year old daughter, two year old son, and a one month old son. We have lived in Lafayette County for over 20 years. We applied for our daughter to attend Spring Hill School District, a non-resident school district, for 2015-2016 school year. Unfortunately, we received a rejection letter from Spring Hill School District, because Lafayette County School District, our resident school district, opted out of the Public School Choice Act of 2015. My wife and I have researched the rejection decision, and found the decision was based on a 1992 Lewisville School District Desegregation Order. The 1992 Lewisville School District Desegregation Order, based on our findings, is focused on discrimination against teachers and school employees not discrimination against students. Lewisville and Stamps School Districts consolidated in July 2003 to create Lafayette County School District. Therefore, we, Harley and Holly Tatom, are questioning the Desegregation Order Lafayette County School District has filed with the Arkansas Department of Education. How can Lafayette County School District be able to opt out of the Public School Choice Act of 2015 under a 1992 Lewisville School District Desegregation Order, when Lewisville School District hasn't been a school district over 10 years? It appears to us, as parents, Lafayette County School District **DOES NOT** have an **ACTIVE** Desegregation Order filed with the Arkansas Department of Education.

My wife and I filed our Public School Choice Act of 2015 with Spring Hill School District to remove our daughter for educational, safety, and lack of discipline reasons within the Lafayette School District. We went to educational websites to discover Lafayette County School District is ranked much lower than the other school districts in Southwest Arkansas. As for the safety and lack of discipline reasons, we have first- hand experience with these issues. Our daughter has been bullied for the biggest part of this school year. We have called numerous times and made several trips to the school, going thru the proper procedures: speaking to the teacher, principal, and superintendent, still to this day, nothing has been done to STOP THE BULLYING! This is not only lack of discipline, but VERY MUCH a safety issue!

Therefore, Harley and Holly Tatom, parents of minor children, are appealing the decision of the rejection letter from Spring Hill School District, because we, as parents, are striving for a safe environment for our children to have the opportunity to learn and achieve academic excellence.

Please accept this letter requesting an appeal hearing for Harley and Holly Tatom to remove our child from our resident school district, Lafayette County School District, to a non-resident school district, Spring Hill School District, under the Public School Choice Act of 2015.

Sincerely,

Harley and Holly Tatom

531 Lafayette 41

Buckner, AR 71827

870-953-0209 (Harley's Cell)

May 15, 2015

Samuel Ledbetter

Four Capital Mall

Little Rock, AR 72201

Dear Mr. Ledbetter,

I would like to like to introduce myself. My name is Angie Vickers. I am writing on behalf of myself and my husband Mike Vickers. We applied for our children to be able to attend Spring Hill School District in Hope Arkansas using the School Choice Act. We currently live in Buckner, AR which is in Lafayette County. We were denied the option of school choice because Lafayette County School District has declared exemption from the Public School Choice Act of 2015 due to the provisions of a desegregation court order or plan. I personally looked on the Department of Education website and found the letter written from Lafayette County School District's attorney, Allen Roberts, along with the supporting document from a lawsuit that they consider a desegregation lawsuit. I am not a lawyer; however, while looking through the lawsuit it seemed to pertain to employees and the need to make sure people were not being discriminated against in employment at this district- not in discrimination involving students. I also wanted to check on the fact that this lawsuit was from 1992. At that time there was no Lafayette County School District. In searching for information I found the agenda from the State Board of Education dated February 10, 2003 requesting that each original district (Lewisville and Stamps School Districts) form a new district effective July 1, 2003. If this lawsuit is from a time before there ever was a Lafayette County School District, how can it apply to the School Choice Act now and how can Lafayette County School District use it in order to avoid complying with the Act?

There are many reasons that we would like to be able to use the School Choice Act in order to send our children to Spring Hill Schools. First, I am currently a teacher at Spring Hill School. We have a son that is graduating this year and two younger children that attend Spring Hill Elementary. I utterly enjoy teaching at this school district. I plan to teach for many years to come; however, due to some recent health problems I am not sure what the future will hold for me. We would like for our children to be able to continue their education at Spring Hill Schools

in the event that I am no longer able to teach. The reasons for this is that the school community is outstanding, respect with accountability and discipline is part of the school culture, and this is where my children have their roots, memories, and belonging. In today's society stability is a treasure. We want the stability of our children to remain intact. They are thriving at Spring Hill Schools! Next, the school ranking of Lafayette County Schools compared to Spring Hill Schools concerns me as far as the education that my children would receive. I am basing this on the districts report cards. Next year for example our son will be in third grade and our daughter will be in seventh grade. The AMO reported for third grade literacy and math for Lafayette County is 63.47/74.15. The AMO reported for the same area for Spring Hill Schools is 90.03/91.67. The AMO reported for seventh grade literacy and math for Lafayette County is 63.47/74.15. The AMO reported for the same area for Spring Hill Schools is 90.03/91.67. The graduation rate shown on the respective reports for Lafayette County Schools is 80.4% and 97.8% for Spring Hill Schools. Finally, the safety of our children is of great concern for us. There have been a few publicized instances concerning employees of Lafayette County Schools that would cause us great concern if our children attended classes there.

In conclusion, **we respectfully ask that we be granted a hearing to reconsider the application**. Thank you very much for your time in reading this letter, and we look forward to your reply.

Sincerely,

Mike and Angie Vickers

pring Hill School District - 2906000

NDICATOR: School Performance

	2011-2012			2012-2013			2013-2014		
	School	District	State	School	District	State	School	District	State
Graduation Rate (*State Goal 85%)									
Graduation Rate Combined		93.8 %	84.1 %		[illegible]	84.9 %		[illegible]	86.9 %
Graduation Rate for Targeted Acheivement Gap Group		[illegible]	79.3 %		[illegible]	80.5 %		[illegible]	82.9 %
Graduation Rate African American		[illegible]	78.1 %		[illegible]	78.1 %		[illegible]	81.0 %
Graduation Rate Hispanic		100.0 %	78.0 %		[illegible]	81.8 %		[illegible]	84.5 %
Graduation Rate Caucasian		[illegible]	87.0 %		[illegible]	87.8 %		[illegible]	89.3 %
Graduation Rate Economically Disadvantaged		[illegible]	79.1 %		[illegible]	80.3 %		[illegible]	82.7 %
Graduation Rate Students with Disabilities		[illegible]	79.2 %		[illegible]	80.4 %		[illegible]	83.1 %
Graduation Rate Limited English Proficient		[illegible]	77.3 %		[illegible]	80.8 %		[illegible]	84.1 %
Grade Inflation Rate		[illegible]	—		[illegible]	2.51 %		[illegible]	7 %
College Remediation Rate		[illegible]	49.4 %		[illegible]	43.0 %		[illegible]	45.4 %
Enrollment									
October 1 Enrollment		[illegible]	468,656		[illegible]	471,867		[illegible]	474,995

IDICATOR: School Performance

	2011-2012			2012-2013			2013-2014		
	School	District	State	School	District	State	School	District	State
raduation Rate (*State Goal 85%)									
aduation Rate Combined	82.6 %	[illegible]	84.1 %	96.9 %	[illegible]	84.9 %	100.0 %	[illegible]	86.9 %
radvation Rate for Targeted Acheivement Gap Group	70.0 %	[illegible]	79.3 %	88.9 %	[illegible]	80.5 %	100.0 %	[illegible]	82.9 %
raduation Rate African American	66.7 %	[illegible]	78.1 %	100.0 %	[illegible]	78.1 %	100.0 %	[illegible]	81.0 %
raduation Rate Hispanic	0.0 %	[illegible]	78.0 %	0.0 %	[illegible]	81.8 %	0.0 %	[illegible]	84.5 %
raduation Rate Caucasian	85.0 %	[illegible]	87.0 %	96.3 %	[illegible]	87.6 %	100.0 %	[illegible]	89.3 %
raduation Rate Economically Disadvantaged	79.0 %	[illegible]	79.1 %	68.9 %	[illegible]	80.3 %	100.0 %	[illegible]	82.7 %
raduation Rate Students with Disabilities	50.0 %	[illegible]	79.2 %	0.0 %	[illegible]	80.4 %	100.0 %	[illegible]	83.1 %
raduation Rate Limited English Proficient	0.0 %	[illegible]	77.3 %	0.0 %	[illegible]	80.8 %	0.0 %	[illegible]	84.1 %
rade Inflation Rate	—	[illegible]	—	0 %	[illegible]	2.51 %	0 %	[illegible]	7 %
ollege Remediation Rate	—	[illegible]	49.4 %	26.3 %	[illegible]	43.0 %	55.6 %	[illegible]	45.4 %
nrollment									
ctober 1 Enrollment	152	[illegible]	468,656	149	[illegible]	471,867	144	970	474,995

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Lafayette County School District - 3704000

INDICATOR: School Performance

	2011-2012			2012-2013			2013-2014		
	School	District	State	School	District	State	School	District	State
Graduation Rate (*State Goal 85%)									
Graduation Rate Combined		[illegible]	84.1 %		[illegible]	84.9 %		[illegible]	86.9 %
Graduation Rate for Targeted Achievement Gap Group		[illegible]	79.3 %		[illegible]	80.5 %		[illegible]	82.9 %
Graduation Rate African American		[illegible]	78.1 %		[illegible]	78.1 %		[illegible]	81.0 %
Graduation Rate Hispanic		[illegible]	78.0 %		[illegible]	81.8 %		100.0 %	84.5 %
Graduation Rate Caucasian		[illegible]	87.0 %		[illegible]	87.6 %		[illegible]	89.3 %
Graduation Rate Economically Disadvantaged		[illegible]	79.1 %		[illegible]	80.3 %		[illegible]	82.7 %
Graduation Rate Students with Disabilities		[illegible]	79.2 %		[illegible]	80.4 %		100.0 %	83.1 %
Graduation Rate Limited English Proficient		[illegible]	77.3 %		[illegible]	80.8 %		0.0 %	84.1 %
Grade Inflation Rate		[illegible]	---		[illegible]	2.51 %		[illegible]	7 %
College Remediation Rate		[illegible]	49.4 %		[illegible]	43.0 %		[illegible]	45.4 %
Enrollment									
October 1 Enrollment		[illegible]	488,656		[illegible]	471,867		[illegible]	474,995

RECEIVED 06-18-'15 22:24 FROM- TO- ADE Commisioner P0011/0011

RESPONSE

SPRING HILL SCHOOL DISTRICT
633 HWY 355 WEST
HOPE, AR 71801

Angie Raney, Superintendent
Office #870-777-8236
FAX #870-777-9200
E-Mail: angie.raney@springhill.k12.ar.us

RECEIVED
COMMISSIONER'S OFFICE
JUN - 1 2015
DEPARTMENT OF EDUCATION

May 26, 2015

RECEIVED
ATTORNEY'S OFFICE
JUN 01 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

Mr. Johnny Key
Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, Arkansas 72201

Dear Mr. Key:

This letter is written in response to the email notification from Jeremy Lasiter dated May 26, 2015 regarding an appeal from the Dean and Tatom families due to the denial of their school choice application to our district.

According to Public School Choice Act of 2015, nonresident school districts have no choice but to deny school choice applications when said resident district has filed appropriate paperwork regarding a desegregation order to Arkansas Department of Education. Due to this reason, the Spring Hill School District denied the school choice applications turned in by the Dean and Tatom families who were applying for school choice from the Lafayette County School District.

If this matter needs further attention from our school district, please let me know.

Sincerely,

Angie Raney

Angie Raney, Superintendent

Spring Hill School District No. 10
633 Highway 355 West
Hope, Arkansas 71801

SHREVEPORT
LA 710
27 MAY '15
PM 3 L

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MAILED FROM ZIP CODE 71801

Mr. Johnny Key
Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

72201101999

FUQUA CAMPBELL, P.A.

ATTORNEYS AT LAW

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J. BLAKE HENDRIX
ABBIE DECKER RUCKER
PATRICK L. SPIVEY
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DEIDRA PARISH**+
WHITNEY F. MOORE
HALEY HEATH BURKS
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KAYLEN S. LEWIS
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Direct Dial: (501) 975-7122
Email: wmoore@fc-lawyers.com

June 19, 2015

VIA HAND-DELIVERY
Mr. Jeremy Lasiter
Attn: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, Arkansas 72201

Re: Lafayette County School District (Resident District)
Spring Hill School District (Non-Resident District)
Public School Choice Act of 2015 Appeals submitted by the Dean, Tatom, and Vickers families

Dear Mr. Lasiter:

Allen Roberts and I represent Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003.

LCSD is the resident district involved in the aforementioned Public School Choice Act of 2015 appeals filed by the Dean, Tatom, and Vickers families, all of whom applied for transfer to Spring Hill School District (SHSD). SHSD correctly denied all of the transfer requests based on LCSD's declaration of a conflict pursuant to Ark. Code Ann. 6-18-1906(a). In compliance with Ark. Code Ann. 6-13-113(b) and 6-18-1906(a)(2), LCSD has submitted to the Department of Education a copy of the consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div., which is a desegregation court order that conflicts with LCSD's participation in school choice.

Pursuant to your notice of hearing letter dated June 3, 2015, I would like to submit the following materials for consideration at the State Board of Education's July 9, 2015 meeting:

1. The resolution adopted by LCSD's board regarding LCSD's decision not to participate in school choice (**Exhibit 1**).
2. The April 21, 2015 letter from Allen Roberts regarding LCSD's decision not to participate in school choice (**Exhibit 2**).
3. The March 4, 1993 consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div (**Exhibit 3**).
4. Former Attorney General Mike Beebe's September 24, 2003 opinion regarding the State Board of Education's authority to construe court orders (**Exhibit 4**).
5. A power of attorney signed by Gary and Connie Dean granting consent and permission to Wayne and/or Elsie Halbert regarding educational decisions for the Deans' minor child (**Exhibit 5**).

The appeals question the validity of the order in *Turner*. There is no indication from the 2015 Act (nor from its predecessor, the Public School Choice act of 2013) that the legislature intended for the State Board of Education to review the propriety of a conflict claimed by a district pursuant to Ark. Code Ann. 6-18-1906(a). There is no provision in the Act that authorizes the Department or the State Board to approve or deny a district's submission. The Act only provides opportunity for a district to claim a conflict and provide the Department of Education with a copy of the conflicting order, which LCSD has done.

An Attorney General's opinion issued in 2003 regarding the School Choice Act of 1989 directly addresses the question of whether the State Board should review and interpret federal court orders. On September 24, 2003, the Attorney General's office wrote to then ADE director, Ray Simon, in Opinion No. 2003-269. Mr. Simon had asked whether or not the State Board of Education had the legal authority to decide whether a district could accept students outside the parameters of the 1989 Act "as long as the district is in compliance with the requirements of the assumed U.S. District Court Order?" (Exhibit 4, p. 2). Attorney General Beebe makes clear in the opinion that the State Board of Education should not seek to interpret federal court orders, stating:

> In my opinion the state Board of Education does not have authority to determine that a school district 'is in compliance with the Arkansas School Choice Act' where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision.

The opinion concludes with the note that disputes involving construction of federal court orders are properly left to the parties themselves, their respective counsels, or if necessary, to the issuing court itself. (Exhibit 4, p. 5).

The *Turner* case was filed by a black staff member and black parents of children attending Lewisville School District. (Exhibit 3, p. 1). Paragraph 4 of the decree specifically references "racial discrimination in . . . student assignment." (Exhibit 3, p. 2). Paragraphs 2 and 3 also address discrimination against students on the basis of race. (Exhibit 3, p. 2). Paragraph 12 requires the desegregation of all classes, programs, and activities offered by the district. (Exhibit 3, p. 5). The consent decree concludes by stating, in paragraph 18, that "the Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." (Exhibit 3, p. 6). As noted by Mr. Roberts in Exhibit 2, the desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (i.e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding. To the best of LCSD's knowledge, this is the last order entered in the case. There are no orders dismissing the case or declaring that LCSD is unitary.

The structure of the Act also strongly suggests that the assertion of a conflict is not appealable because there is no provision in either the Act or the emergency rules that the resident district do anything when the non-resident district denies the application. This logically should mean that appeals are limited to issues such as enrollment caps and capacity issues. The applications were denied solely due to LCSD's conflict, not due to capacity or enrollment caps.

The Act also lacks any provision for the resident district to be heard as a party on appeal. If an appeal of the asserted conflict was contemplated, then party status would have been accorded the resident district. Because it was not, consideration of an appeal on those grounds without providing for party status for the resident district would result in a denial of procedural and substantive due process to the resident district.

The appeals state various reasons why these families would like to leave LCSD and enroll their children in SHSD. However, none of those reasons override the federal court order presented by LCSD, as permitted by the Act.

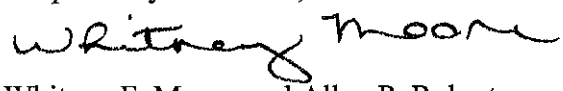
With respect to the appeal of Gary and Connie Dean, the Deans previously provided LCSD with a copy of a power of attorney executed May 13, 2014. The power of attorney was provided to LCSD as the basis for the Deans' child to attend SHSD. The Deans expressly revoked their right to make "enrollment" and "admission" decisions for the child and ceded those rights to Wayne and/or Elsie Halbert, who are not parties to this appeal. There is no indication that the power of attorney has been revoked. For these reasons, the Deans' appeal should be denied because they did not have the authority to apply for a school choice transfer.

With respect to the appeal of Mike and Angie Vickers, the Vickers children are already enrolled in SHSD, pursuant to Ark. Code Ann. 6-18-203, which allows a non-resident school employee to enroll her children in the non-resident/employer district.

LCSD does not contest the legality of the Vickers children's attendance at SHSD based on the employment of their mother. However, LCSD submits that a school choice application is premature and not ripe for the Board's consideration in light of their present enrollment in SHSD pursuant to their mother's employment with SHSD.

For the foregoing reasons, the Dean, Tatom, and Vickers appeals should be denied. We appreciate your consideration of this response and request an opportunity to be heard at the hearing.

Respectfully submitted,



Whitney F. Moore and Allen P. Roberts
Attorneys for Lafayette County School District

cc: Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Allen P. Roberts
Allen P. Roberts, P.A.
P.O. Box 280
Camden, AR 71711

Angie Raney, Superintendent
Spring Hill School District
633 Highway 355 West
Hope, AR 71801

Tommy and Connie Dean
1127 Lafayette 21
Stamps, AR 71860

Harley and Holly Tatom
531 Lafayette 41
Buckner, AR 71827

Mike and Angie Vickers
356 Lafayette 43
Buckner, AR 71827

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 1

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (*i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

EXHIBIT 2

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District

Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

EXHIBIT 3

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

EXHIBIT 3

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

EXHIBIT 3

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

EXHIBIT 3

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

EXHIBIT 3

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

EXHIBIT 3

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72014
LASER, SHARP, MAYES, WILSON, BUFFORD
& WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP.

on _____ by _____

EXHIBIT 3

Opinion No. 2003-269

September 24, 2003

Mr. Raymond Simon, Director
Arkansas Department of Education
#4 Capitol Mall
Little Rock, Arkansas 72201-1071

Dear Mr. Simon:

I am writing in response to your request for an opinion on several questions relating to the "Arkansas Public School Choice Act of 1989," as amended. Specifically, you pose the following questions, which I have numbered below:

1. Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

2. In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

3. Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance

EXHIBIT 4

> with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

RESPONSE

I cannot provide an answer to your first and second questions, because the answer will depend upon the provisions of the applicable U.S. District Court order. In my opinion the answer to your third question is "no," the State Board of Education does not have this authority.

Question 1-- Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

Question 2-- In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

The "Arkansas Public School Choice Act of 1989" is codified at A.C.A. § 6-18-206. It has been amended several times since its original adoption, most recently by Act 1272 of 2003. This most recent act requires all school districts to participate in public school choice, rather than making such participation optional with each school board, as under prior law. The applicable statute sets out a procedure for a student or his or her parent or guardian to make application for a transfer of school districts. The statute also sets out, among other things, requirements pertaining to student transportation and the treatment of "state equalization aid" with regard to transferring students. Subsection (f) of the statute, which you reference in your request, provides as follows:

> (f) The provisions of this section and all student choice options created in this section are subject to the following limitations:
>
> (1) No student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that

percentage in the student's resident district except in the circumstances set forth in subdivisions (2) and (4) of this subsection;

(2) A transfer to a district is exempt from the restriction set forth in subdivision (f)(1) of this section if the transfer is between two (2) districts within a county, and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and non-resident district remain within an acceptable range of the county's overall minority percentage in the student's race and majority percentages of school population as set forth by the department;

(3) The department shall, by the filing deadline each year, compute the minority percentage in the student's race and majority percentages of each county's public school population from the October Annual School Report and shall then compute the acceptable range of variance from those percentages for school districts within each county. In establishing the acceptable range of variance, the department is directed to use the remedial guideline established in Little Rock School District v. Pulaski County Special School District of allowing an overrepresentation or underrepresentation of black or white students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance. In establishing the acceptable range of variance for school choice, the department is directed to use the remedial guideline of allowing an overrepresentation or underrepresentation of minority or majority students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance;

(4) A transfer is exempt from the restriction set forth in subdivision (f)(1) of this section if each school district within the county does not have a critical mass of minority percentage in the student's race students of more than ten percent (10%) of any single race;

(5) *In any instance where the foregoing provisions would result in a conflict with a desegregation court order or a district's court-*

> *approved desegregation plan, the terms of the order or plan shall govern;*
>
> (6) The department shall adopt appropriate rules and regulations to implement the provisions of this section; and
>
> (7) The department shall monitor school districts for compliance with this section.

A.C.A. § 6-18-206 (f), as amended by Act 1272 of 2003 (emphasis added).

The emphasized language of subsection (f)(5) above provides for the supremacy of a desegregation orders or court-approved desegregation plans in the case of a "conflict" between such orders and plans, on the one hand, and the "foregoing" provisions of A.C.A. § 6-18-206(f), which outline racial limitations and exceptions on transfers. Conceivably, therefore, a federal court order could, depending upon its provisions, have controlling effect over the provisions of A.C.A. § 6-18-206(f). The question in each instance will be whether the statutory provisions above actually conflict with any such a federal court order. Resolution of that type of question will depend upon the provisions of the order in question and any and all other pertinent facts and laws. I cannot determine this issue in the context of an official Attorney General opinion. As one of my predecessors stated in Op. Att'y Gen. 95-066:

> The construction of such [federal court] orders and agreements is best left to the parties themselves, or ultimately to the federal court. This office has not been provided with a copy of any federal court order or settlement agreement, and cannot, in the context of an official opinion of the Attorney General, especially where the state is not a party, presume to dictate actions to be taken under the rubric of such documents.

Id. at 2. *See also* Op. Att'y Gen. 94-139 (declining to interpret a federal court order and stating that "reference to th[e] particular court order, and possibly clarification from the federal court, would be necessary to resolve the issue conclusively).

I am therefore unable to render an opinion on your first and second questions above.

EXHIBIT 4

Question 3-- Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

Subsection (g) of A.C.A. § 6-18-206 provides that: "[t]he state board shall be authorized to resolve disputes arising under subsections (b) – (f) of this section."

In my opinion the State Board of Education does not have authority to determine that a school district "is in compliance with the Arkansas School Choice Act" where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision. *Cf. State Police v. McCall*, 98 A.D.2d 921, 470 N.Y.S.2d 916 (1983) ("State Human Rights Appeal Board" (a state administrative agency), did not exceed its jurisdiction in construing federal district court order, but only because its decision was supported by other documentary proof and board did not base its decision solely on an interpretation of federal court order).

Disputes involving construction of federal court orders are properly left to the parties thereto, and their respective counsels, or if necessary, to the issuing court itself.

Deputy Attorney General Elana C. Wills prepared the foregoing opinion, which I hereby approve.

Sincerely,

MIKE BEEBE
Attorney General

MB:ECW/cyh

EXHIBIT 4

POWER OF ATTORNEY FOR MINOR

TO ALL WHOM THESE PRESENTS ARE KNOWN:

That We, Gary T. Dean, Jr. and/or Connie A. Dean, of LAFAYETTE County, Arkansas, being the natural Father and Mother of [redacted] Dean, [hereafter the "child"] appoint Wayne and/or Elsie Halbert of LAFAYETTE County, Arkansas, my true and lawful attorney-in-fact for me and in my name, place and stead and in my behalf, and to do and perform all of the following responsibilities and have all the rights in connection therewith:

1. Perform and act as and for me in a parental capacity as and to the child;
2. Give consent and permission for any kind of medical care and treatment, and to sign any papers to have the child admitted to a hospital for such purpose, or as may be required to maintain the health of the child;
3. Give consent and permission for enrollment in and admission to school and to resolve problems arising from school attendance, and to sign any papers necessary for such purpose or sign other documents relating to the child's welfare at school;
4. Perform any act necessary to obtain relief or aid that might benefit the child;
5. Perform any other acts for support, health, and general care of the child as may be required or necessary.
6. We, Gary T. Dean, Jr. and/or Connie A. Dean, do hereby give and grant to Wayne and/or Elsie Halbert, my said Attorney-in-fact, full power and authority to do and perform any and all acts required to protect and promote the welfare of the child, as fully and for all intents and purposes as I might or could do if I were personally present at the time thereof, hereby ratifying and confirming all that my said Attorneys may or shall lawfully do or cause to be done by virtue of this Power-of-Attorney and the rights and powers herein granted.
7. It is not my intention to relinquish my parental rights in and to my child.

IN TESTIMONY WHEREOF, We have hereunto set our hands this 13th day of May, 2014.

GARY T. DEAN, JR.

CONNIE A. DEAN

870-904-9772

EXHIBIT 5

ASSOCIATED DOCUMENTS

June 5, 2015

Office of the Commissioner

ATTN: Kendra Clay

Four Capital Mall

Little Rock, AR 72201

Dear Ms. Clay,

Per our phone conversation today, June 5, 2015, the parents, who were denied admission into the Spring Hill School District, are requesting one appeal hearing before the Arkansas State Board of Education. We, the parents of Lafayette County School District, were denied by Spring Hill School District on the claim of a desegregation order filed by Lafayette County School District. The parents, who are requesting one appeal hearing before the Arkansas State Board of Education, are as follows:

Tommy and Connie Dean

Mike and Angie Vickers

Harley and Holly Tatom

Thank you in advance for your cooperation on this request.

Sincerely,

Connie Dean

Connie Dean

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.*e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

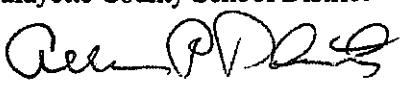
In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District



Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

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This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

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and the Equity Office of the State Department to achieve these objectives.

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December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

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LASER, SHARP, MAYES, WILSON, BUFFORD
& WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP,

on _____ by _____

SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection and applies for a school choice transfer under § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(3) A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under subdivision (c)(2) of this section may complete all remaining school years at the nonresident district.

SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to read as follows:

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district ~~with a copy to~~ ,which shall notify the resident district of the filing of the application;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) A nonresident district that receives an application under subsection (a) of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

(c) A nonresident district shall review and make a determination on each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

1 ~~subsection is irrevocable for one (1) year from the date the school district~~
2 ~~notifies the Department of Education of the declaration of exemption.~~
3 ~~(B) After each year of exemption, the board of directors~~
4 ~~may elect to participate in public school choice under this section if the~~
5 ~~school district's participation does not conflict with the school district's~~
6 ~~federal court-ordered desegregation program.~~
7 ~~(3) A school district shall notify the department by April 1 if~~
8 ~~in the next school year the school district intends to:~~
9 ~~(A) Declare an exemption under this section; or~~
10 ~~(B) Resume participation after a period of exemption.~~
11 ~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit
12 on school choice transfers each school year from a school district, less any
13 school choice transfers into the school district, under this section of not
14 *more than three percent (3%) of the* ~~*school district's three-quarter average*~~
15 ~~*daily membership for the*~~ *enrollment that exists in the school district as of*
16 *October 15 of the immediately preceding school year.*
17 (B) For the purpose of determining the percentage of school
18 choice transfers under this subsection, siblings who are counted in the
19 numerator as transfer students shall count as one (1) student~~, and siblings~~
20 ~~who are counted in the denominator as part of the average daily membership~~
21 ~~shall count as one (1) student~~.
22 (C) A student eligible to transfer to a nonresident
23 district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count
24 against the cap of three percent (3%) of the resident or nonresident
25 district.
26 (2) Annually by ~~June 1~~ *December 15*, the department shall report
27 to each school district the net maximum number of school choice transfers for
28 the ~~current~~ next school year.
29 (3) If a student is unable to transfer due to the limits under
30 this subsection, the resident district shall give the student priority for a
31 transfer in the ~~following~~ first school year in which the district is no
32 longer subject to subdivision § (b)(1) of this section in the order that the
33 resident district receives notices of applications under § 6-18-1905, as
34 evidenced by a notation made by the district on the applications indicating
35 date and time of receipt.
36

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY				
Date and Time Received by Resident District:			Date and Time Received by Nonresident District:	
Resident District LEA #:			Nonresident District LEA#:	
Student's State Identification #:				
Application	Accepted		Rejected	
Reason for Rejection (If Applicable):				
Date Notification Sent to Parent/Guardian of Applicant:				
Date Notification Sent to Resident District :				

HEARING PROCEDURES

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

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8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

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10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

COPY

June 3, 2015

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

Harley and Holly Tatom
[redacted]
Buckner, AR 71827

Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Angie Raney, Superintendent
Spring Hill School District
633 Highway 355 West
Hope, AR 71801

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is tentatively scheduled to hear the above-referenced appeal(s) on **Thursday, July 9, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on June 19, 2015**.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

/signed/

Jeremy C. Lasiter
General Counsel

cc: Mr. Johnny Key, Commissioner of Education
Ms. Annette Barnes, Asst. Commissioner, Public School Accountability
State Board of Education Office

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

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APPEAL

RECEIVED
ATTORNEY'S OFFICE

MAY 26 2015

DEPARTMENT OF EDUCATION
GENERAL DIVISION

RECEIVED
COMMISSIONER'S OFFICE

MAY 26 2015

DEPARTMENT OF EDUCATION

Mr. Key, May 19, 2015

We are Harley and Holly Tatom. We are the parents of three children, a 10 year old daughter, two year old son, and a one month old son. We have lived in Lafayette County for over 20 years. We applied for our daughter to attend Spring Hill School District, a non-resident school district, for 2015-2016 school year. Unfortunately, we received a rejection letter from Spring Hill School District, because Lafayette County School District, our resident school district, opted out of the Public School Choice Act of 2015. My wife and I have researched the rejection decision, and found the decision was based on a 1992 Lewisville School District Desegregation Order. The 1992 Lewisville School District Desegregation Order, based on our findings, is focused on discrimination against teachers and school employees not discrimination against students. Lewisville and Stamps School Districts consolidated in July 2003 to create Lafayette County School District. Therefore, we, Harley and Holly Tatom, are questioning the Desegregation Order Lafayette County School District has filed with the Arkansas Department of Education. How can Lafayette County School District be able to opt out of the Public School Choice Act of 2015 under a 1992 Lewisville School District Desegregation Order, when Lewisville School District hasn't been a school district over 10 years? It appears to us, as parents, Lafayette County School District **DOES NOT** have an **ACTIVE** Desegregation Order filed with the Arkansas Department of Education.

My wife and I filed our Public School Choice Act of 2015 with Spring Hill School District to remove our daughter for educational, safety, and lack of discipline reasons within the Lafayette School District. We went to educational websites to discover Lafayette County School District is ranked much lower than the other school districts in Southwest Arkansas. As for the safety and lack of discipline reasons, we have first- hand experience with these issues. Our daughter has been bullied for the biggest part of this school year. We have called numerous times and made several trips to the school, going thru the proper procedures: speaking to the teacher, principal, and superintendent, still to this day, nothing has been done to STOP THE BULLYING! Mr. Key, this is not only lack of discipline, but VERY MUCH a safety issue!

Therefore, Harley and Holly Tatom, parents of minor children, are appealing the decision of the rejection letter from Spring Hill School District, because we, as parents, are striving for a safe environment for our children to have the opportunity to learn and achieve academic excellence.

Please accept this letter requesting an appeal hearing for Harley and Holly Tatom to remove our child from our resident school district, Lafayette County School District, to a non-resident school district, Spring Hill School District, under the Public School Choice Act of 2015.

Sincerely,

Harley and Holly Tatom

[redacted]

Buckner, AR 71827

[redacted]

SPRING HILL SCHOOL DISTRICT
633 HWY 355 WEST
HOPE, AR 71801

Angie Raney, Superintendent
Office #870-777-8236
FAX #870-777-9200
E-Mail: angie.raney@springhill.k12.ar.us

May 8, 2015

Dear Mr. Tatom:

Thank you for your application for transfer to the Spring Hill School District. We appreciate your interest in our schools. We regret to inform you that we must deny your application for the 2015-16 school year.

The Spring Hill School District is unable to accept your application for transfer at this time, due to the fact that the Lafayette County Public Schools has declared an exemption from the Public School Choice Act of 2015 due to the provisions of a desegregation court order or plan.

If you have any questions, please contact me at 870-777-8236.

Sincerely,

Angie Raney

Angie Raney, Superintendent

cc: Resident District

Harley & Holly Tatom
[redacted]
Belcher, AR 71827

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL™

7012 3460 0000 8587 4597

UNITED STATES POSTAL SERVICE

1000

72201

U.S. POSTAGE
PAID
LEWISVILLE, AR
71845
MAY 21, '15
AMOUNT
$6.49
00050922-04

Johnny Key, Commissioner
Arkansas Department of Education
Tower Capitol Mall, Room 304-A
Little Rock, AR 72201

APPLICATION FOR TRANSFER TO A NON-RESIDENT DISTRICT
"ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"

(Must be submitted to Non-Resident Districts)

APPLICANT INFORMATION

Applicant Name H[redacted] TATOM — Date and Time Received by Non-Resident District: 4/9/15 10:58 AM

Date of Birth [redacted] — Gender Male ☐ Female ☑

GRADE 5th

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races	☐				
African American	☐	Asian	☐	Hispanic	☐
Native American/ Native Alaskan	☐	Native Hawaiian/ Pacific Islander	☐	White	☑

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name LAFAYETTE COUNTY — County Name LAFAYETTE

Address 712 Chestnut St. Lewisville, AR

Phone 870-921-5500

NON-RESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name Spring Hill — County Name HEMPSTEAD

Address 233 AR 355 Hope, AR 71801

Phone 870-777-8236

Does the applicant already have a sibling or step-sibling in attendance in this district? no

PARENT OR GUARDIAN INFORMATION OF APPLICANT

Name DAVID HARLEY TATOM — Home Phone

Address [redacted] Buckner, AR 71827 — Work Phone [redacted]

Parent/Guardian Signature Harley Tatom — Date 4-9-15

Pursuant to standards adopted by a non-resident school board a non-resident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. A school district receiving transfers under the School Choice Act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion or disability. However, a non-resident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Act 560 of 2015 (Public School Choice Act). Priority will be given to applicants with siblings or step-siblings attending the district. The non-resident district shall accept credits toward graduation that were awarded by another district and award a diploma to a non-resident applicant if the applicant meets the non-resident district's graduation requirements. This application must be filed in the non-resident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the non-resident district. Any district receiving this application must retain it in its district records for at least one (1) year from the date it is received, for data verification and general recordkeeping purposes.

DISTRICT USE ONLY

Application Accepted ☐ Rejected ☑

Date Notification Sent to Parent/Guardian of Applicant 5/8/15

Date Notification Sent to Resident District 5/8/15

Fax Cover Letter

To: Jeremy Lasiter and Kendra Clay

Fax # 501-682-1079

From: Mike and Angie Vickers

Tommy and Connie Dean

Harley and Holly Tatom

Chad and Marcy Teague

[redacted]

Re: School Choice Materials For Appeal Hearing

Number of Pages (including cover sheet) 10

Date: 6/18/15

Comments: Please include all copies as additional materials to be viewed for Lafayette County Parents School Choice Appeal scheduled for July 9, 2015.

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com

Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (*i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

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suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District

Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

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Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

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staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

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and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 50%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

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and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

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appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

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December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72013
LASER, SHARP, MAYES, WILSON, BUFFORD
& WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a) and 58, FRCP.

on _____ by _____

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Fax Cover Letter

To: Jeremy Lasiter and Kendra Clay

Fax # 501-682-1079

From: Mike and Angie Vickers

Tommy and Connie Dean

Harley and Holly Tatom

Chad and Marcy Teague

[redacted]

Re: School Choice Materials For Appeal Hearing

Number of Pages (including cover sheet) 9

Date: 6/18/15

Comments: Please include all copies as additional materials to be viewed for Lafayette County Parents School Choice Appeal scheduled for July 9, 2015.

Emerson-Taylor-Bradley School District - 1408000

Taylor Elementary School - 1408018

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Proficient	2012-2013 Below Basic	2012-2013 Proficient	2013-2014 Below Basic	2013-2014 Proficient	School AMO
3rd Grade Literacy		Annual Measurable Objective (AMO) 83.52		2013 AMO 85.02				AMO
Combined Population	100			0	10.53	4.35	39.1	86.52
TAGG	100			RV	RV	9.09	54.5	71.43
African American	RV			RV	RV	RV	RV	50.00
Hispanic	RV			RV	RV	RV	RV	
Caucasian	100			0	10.53	4.55	36.4	87.86
Economically Disadvantaged	100			RV	RV	10.0	50.0	75.68
Students with Disabilities	RV			RV	RV	RV	RV	42.31
Limited English Proficient	RV			RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 3rd Grade Literacy			RV		RV		—	
Female	100			RV	RV	0.00	40.0	
Male	100			0	7.14	7.69	38.5	
Migrant	RV			RV	RV	RV	RV	
3rd Grade Mathematics		Annual Measurable Objective (AMO) 91.76		2013 AMO 92.51				AMO
Combined Population	100			0	47.37	0.00	39.1	93.26
TAGG	100			RV	RV	0.00	36.4	89.28
African American	RV			RV	RV	RV	RV	75.00
Hispanic	RV			RV	RV	RV	RV	
Caucasian	100			0	47.37	0.00	36.4	93.82
Economically Disadvantaged	100			RV	RV	0.00	40.0	89.87
Students with Disabilities	RV			RV	RV	RV	RV	71.16
Limited English Proficient	RV			RV	RV	RV	RV	
Female	100			RV	RV	0.00	40.0	
Male	100			0	36.71	0.00	38.5	
Migrant	RV			RV	RV	RV	RV	

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Emerson-Taylor-Bradley School District - 1408000

Taylor High School - 1408019

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Basic	2011-2012 Proficient	2011-2012 Advanced	2012-2013 Below Basic	2012-2013 Basic	2012-2013 Proficient	2012-2013 Advanced	2013-2014 Below Basic	2013-2014 Basic	2013-2014 Proficient	2013-2014 Advanced	School
7th Grade Literacy		Annual Measurable Objective (AMO) 85.45				2013 AMO 86.78								AMO
Combined Population	100					0	[illegible]	41.38	[illegible]	0.00	[illegible]	30.8	[illegible]	88.10
TAGG	100					0	[illegible]	33.33	[illegible]	0.00	[illegible]	50.0	[illegible]	76.00
African American	RV					RV	RV	RV	RV	RV	RV	RV	RV	40.00
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Caucasian	100					0	[illegible]	42.86	[illegible]	0.00	[illegible]	31.8	[illegible]	92.25
Economically Disadvantaged	RV					0	[illegible]	38.46	[illegible]	RV	RV	RV	RV	76.00
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	25.00
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 7th Grade Literacy					RV				RV				—	
Female	100					0	[illegible]	18.18	[illegible]	0.00	[illegible]	23.1	[illegible]	
Male	100					0	[illegible]	55.56	[illegible]	0.00	[illegible]	38.5	[illegible]	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Mathematics		Annual Measurable Objective (AMO) 87.06				2013 AMO 88.23								AMO
Combined Population	100					10.34	[illegible]	44.83	[illegible]	15.4	[illegible]	19.2	[illegible]	89.41
TAGG	100					20	[illegible]	53.33	[illegible]	40.0	[illegible]	30.0	[illegible]	81.25
African American	RV					RV	RV	RV	RV	RV	RV	RV	RV	55.00
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Caucasian	100					10.71	[illegible]	42.86	[illegible]	9.09	[illegible]	13.6	[illegible]	91.56
Economically Disadvantaged	RV					7.69	[illegible]	61.54	[illegible]	RV	RV	RV	RV	81.25
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	25.00
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Female	100					18.18	[illegible]	36.36	[illegible]	23.1	[illegible]	23.1	[illegible]	
Male	100					5.56	[illegible]	50	[illegible]	7.69	[illegible]	15.4	[illegible]	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	

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Lafayette County School District - 3704000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Basic	2011-2012 Proficient	2011-2012 Advanced	2012-2013 Below Basic	2012-2013 Basic	2012-2013 Proficient	2012-2013 Advanced	2013-2014 Below Basic	2013-2014 Basic	2013-2014 Proficient	2013-2014 Advanced	District
3rd Grade Literacy		Annual Measurable Objective (AMO) 55.35						2013 AMO 59.41						AMO
Combined Population	100					10	20	24	46	10.3	15.1	33.3	41.2	63.47
TAGG	100					11.36	22.73	25	40.91	11.8	17.6	35.3	35.3	61.51
African American	100					13.79	24.14	29.69	32.41	16.7	25.9	27.8	29.6	59.25
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	89.28
Caucasian	100					5	25	25	45	5.00	30.00	35.0	30.0	70.12
Economically Disadvantaged	100					11.36	22.73	25	40.91	11.8	17.6	35.3	35.3	81.73
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 3rd Grade Literacy					RV				RV				—	
Female	100					0	15	30	55	6.25	12.5	31.3	50.0	
Male	100					16.67	43.33	20	40	13.0	17.4	34.8	34.8	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	
3rd Grade Mathematics		Annual Measurable Objective (AMO) 68.40						2013 AMO 71.28						AMO
Combined Population	100					6	54	40	60	2.56	20.5	17.9	59.0	74.15
TAGG	100					6.82	52.3	40.91	59.09	2.94	20.6	20.6	55.9	72.87
African American	100					3.45	10.34	41.38	44.83	5.56	22.2	27.8	44.4	69.95
Hispanic	RV					RV	RV	RV	RV	RV	RV	RV	RV	100.00
Caucasian	100					10	0	35	55	0.00	20.00	10.0	70.0	80.32
Economically Disadvantaged	100					6.82	52.3	40.91	59.09	2.94	20.6	20.6	55.9	73.24
Students with Disabilities	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Limited English Proficient	RV					RV	RV	RV	RV	RV	RV	RV	RV	
Female	100					5	55	35	60	0.00	21.9	18.8	59.3	
Male	100					6.67	43.33	43.33	56.67	4.35	17.4	17.4	60.9	
Migrant	RV					RV	RV	RV	RV	RV	RV	RV	RV	

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Lafayette County School District - 3704090

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Advanced 3%	2012-2013 Below Basic	Basic	Proficient	Advanced	Advanced 3%	2013-2014 Below Basic	Basic	Proficient	Advanced	Advanced 3%	District
6th Grade Mathematics		Annual Measurable Objective (AMO) 68.40					2013 AMO 71.28										AMO
Combined Population	100						13.33	[illegible]	22.22	[illegible]	[illegible]	10.5	[illegible]	33.3	[illegible]	[illegible]	74.15
TAGG	100						15.79	[illegible]	23.68	[illegible]	[illegible]	12.0	[illegible]	32.0	[illegible]	[illegible]	72.87
African American	100						18.18	[illegible]	21.21	[illegible]	[illegible]	12.8	[illegible]	30.8	[illegible]	[illegible]	69.95
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	100.00
Caucasian	100						0	[illegible]	30	[illegible]	[illegible]	5.88	[illegible]	35.3	[illegible]	[illegible]	80.32
Economically Disadvantaged	100						15.79	[illegible]	23.68	[illegible]	[illegible]	12.5	[illegible]	31.3	[illegible]	[illegible]	73.24
Students with Disabilities	100						RV	RV	RV	RV	RV	40.0	[illegible]	20.0	[illegible]	[illegible]	40.79
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Female	100						12	[illegible]	16	[illegible]	[illegible]	9.09	[illegible]	33.3	[illegible]	[illegible]	
Male	100						15	[illegible]	30	[illegible]	[illegible]	12.5	[illegible]	33.3	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Literacy		Annual Measurable Objective (AMO) 55.35					2013 AMO 59.41										AMO
Combined Population	100						2.08	[illegible]	43.75	[illegible]	[illegible]	0.00	[illegible]	34.0	[illegible]	[illegible]	63.47
TAGG	100						-2.63	[illegible]	44.74	[illegible]	[illegible]	0.00	[illegible]	39.0	[illegible]	[illegible]	61.51
African American	100						3.12	[illegible]	43.75	[illegible]	[illegible]	0.00	[illegible]	31.3	[illegible]	[illegible]	59.25
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	69.28
Caucasian	100						0	[illegible]	46.67	[illegible]	[illegible]	0.00	[illegible]	31.3	[illegible]	[illegible]	70.12
Economically Disadvantaged	100						2.63	[illegible]	44.74	[illegible]	[illegible]	0.00	[illegible]	39.0	[illegible]	[illegible]	61.73
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	33.11
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 7th Grade Literacy						RV					RV					---	
Female	100						4.17	[illegible]	41.67	[illegible]	[illegible]	0.00	[illegible]	26.7	[illegible]	[illegible]	
Male	100						0	[illegible]	45.83	[illegible]	[illegible]	0.00	[illegible]	45.0	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

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Lafayette County School District - 3704000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Advanced	2012-2013 Below Basic	Basic	Proficient	Advanced	Advanced	2013-2014 Below Basic	Basic	Proficient	Advanced	Advanced	District AMO
7th Grade Mathematics		Annual Measurable Objective (AMO) 68.40					2013 AMO 71.28										
Combined Population	100						12.5		52.08			14.0		30.0			74.15
TAGG	100						13.16		57.89			17.1		31.7			72.87
African American	100						12.5		59.38			21.9		21.9			69.95
Hispanic	RV						RV		RV			RV		RV			100.00
Caucasian	100						6.67		40			0.00		43.8			80.32
Economically Disadvantaged	100						13.16		57.89			17.1		31.7			73.24
Students with Disabilities	RV						RV		RV			RV		RV			40.79
Limited English Proficient	RV						RV		RV			RV		RV			
Female	100						4.17		54.17			10.0		26.7			
Male	100						20.83		50			20.0		35.0			
Migrant	RV						RV		RV			RV		RV			
7th Grade Science																	
Combined Population	100						58.25		8.33			44.0		14.0			
TAGG	100						63.16		2.63			48.8		9.76			
African American	100						65.62		0			56.3		9.38			
Hispanic	RV						RV		RV			RV		RV			
Caucasian	100						40		26.67			25.0		25.0			
Economically Disadvantaged	100						63.16		2.63			48.8		9.76			
Students with Disabilities	RV						RV		RV			RV		RV			
Limited English Proficient	RV						RV		RV			RV		RV			
Female	100						62.5		8.33			33.3		23.3			
Male	100						50		8.33			60.0		0.00			
Migrant	RV						RV		RV			RV		RV			

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Spring Hill School District - 2906000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	2011-2012 Basic	2011-2012 Proficient	2011-2012 Advanced	2011-2012 Advanced	2012-2013 Below Basic	2012-2013 Basic	2012-2013 Proficient	2012-2013 Advanced	2012-2013 Advanced	2013-2014 Below Basic	2013-2014 Basic	2013-2014 Proficient	2013-2014 Advanced	2013-2014 Advanced	District
3rd Grade Literacy		Annual Measurable Objective (AMO) 87.82							2013 AMO 88.93								AMO
Combined Population	100						3.45	0	3.45	93.1	96.6	3.03	0.00	12.1	84.8	96.9	90.03
TAGG	100						5.88	0	5.88	91.2	94.1	5.56	0.00	22.2	72.2	94.4	86.37
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	81.25
Caucasian	100						0	0	4.55	95.5	100	0.00	0.00	15.4	84.6	100	90.30
Economically Disadvantaged	100						6.25	0	6.25	87.5	93.8	0.00	0.00	25.0	75.0	100	87.41
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	39.06
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Number of recently arrived LEP students not assessed in 3rd Grade Literacy						RV					RV					—	
Female	100						6.67	0	6.67	86.7	93.3	0.00	0.00	5.00	95.0	100	
Male	100						0	0	0	100	100	7.69	0.00	23.1	69.2	92.3	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
3rd Grade Mathematics		Annual Measurable Objective (AMO) 89.82							2013 AMO 90.74								AMO
Combined Population	100						0	0	6.9	93.1	100	3.03	3.03	6.06	87.9	93.9	91.67
TAGG	100						0	0.00	11.76	88.2	100	5.56	5.56	11.1	77.8	88.9	88.11
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	87.50
Caucasian	100						0	0	0	100	100	0.00	0.00	7.69	88.5	92.3	92.23
Economically Disadvantaged	100						0	0.00	12.5	87.5	100	0.00	6.25	12.5	81.3	93.8	88.21
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	62.50
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Female	100						0	0.00	6.67	93.3	100	0.00	0.00	5.00	95.0	100	
Male	100						0	0	7.14	92.9	100	7.69	0.00	7.69	84.6	92.3	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

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Spring Hill School District - 2906000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Total Advanced	2012-2013 Below Basic	Basic	Proficient	Advanced	Total Advanced	2013-2014 Below Basic	Basic	Proficient	Advanced	Total Advanced	District
6th Grade Mathematics		Annual Measurable Objective (AMO)				89.82				2013 AMO	90.74						AMO
Combined Population	97.8						6.67	13.33	35.56	[illegible]	[illegible]	4.55	[illegible]	29.5	[illegible]	[illegible]	91.67
TAGG	100						6.9	[illegible]	44.83	[illegible]	[illegible]	9.09	[illegible]	31.8	[illegible]	[illegible]	88.11
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	87.50
Caucasian	97.4						5.13	[illegible]	35.9	[illegible]	[illegible]	5.26	[illegible]	26.3	[illegible]	[illegible]	92.23
Economically Disadvantaged	100						6.9	[illegible]	44.83	[illegible]	[illegible]	9.52	[illegible]	33.3	[illegible]	[illegible]	88.21
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	62.50
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	75.00
Female	100						4.35	[illegible]	39.13	[illegible]	[illegible]	4.55	[illegible]	22.7	[illegible]	[illegible]	
Male	95.7						9.09	[illegible]	31.82	[illegible]	[illegible]	4.55	[illegible]	36.4	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Literacy		Annual Measurable Objective (AMO)				87.82				2013 AMO	88.93						AMO
Combined Population	100						0	[illegible]	32.61	[illegible]	[illegible]	2.17	[illegible]	41.3	[illegible]	[illegible]	90.03
TAGG	100						0	[illegible]	32	[illegible]	[illegible]	0.00	[illegible]	44.0	[illegible]	[illegible]	86.37
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	[illegible]	RV	[illegible]	[illegible]	RV	RV	RV	RV	RV	81.25
Caucasian	100						0	[illegible]	31.82	[illegible]	[illegible]	2.44	[illegible]	39.0	[illegible]	[illegible]	90.30
Economically Disadvantaged	100						0	[illegible]	32	[illegible]	[illegible]	0.00	[illegible]	45.8	[illegible]	[illegible]	87.41
Students with Disabilities	RV						RV	[illegible]	RV	[illegible]	[illegible]	RV	RV	RV	RV	RV	39.06
Limited English Proficient	RV						RV	[illegible]	RV	[illegible]	[illegible]	RV	RV	RV	RV	RV	50.00
Number of recently arrived LEP students not assessed in 7th Grade Literacy						RV					RV					—	
Female	100						0	[illegible]	34.62	[illegible]	[illegible]	9.00	[illegible]	34.8	[illegible]	[illegible]	
Male	100						0	[illegible]	30	[illegible]	[illegible]	4.35	[illegible]	47.8	[illegible]	[illegible]	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

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Spring Hill School District - 2906000

INDICATOR: Achievement

	Tested 2013-2014	2011-2012 Below Basic	Basic	Proficient	Advanced	Advanced	2012-2013 Below Basic	Basic	Proficient	Advanced	Advanced	2013-2014 Below Basic	Basic	Proficient	Advanced	Advanced	District AMO
7th Grade Mathematics		Annual Measurable Objective (AMO) 89.82					2013 AMO 90.74										
Combined Population	100						13.04	41.74	28.26	16.96	0.26	15.2	41.1	39.1	4.6	0.0	91.67
TAGG	100						16	40	32	8	0	20.0	56.0	24.0	0.0	0.0	88.11
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	87.50
Caucasian	100						11.36	37.12	27.27	18.94	5.30	12.2	48.8	39.0	0.0	0.0	92.23
Economically Disadvantaged	100						16	40	32	8	4	16.7	58.3	25.0	0.0	0.0	88.21
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	62.50
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	75.00
Female	100						7.69	15.38	38.46	23.08	15.38	8.70	56.5	34.8	0.0	0.0	
Male	100						20	35	15	20	10	21.7	17.4	43.5	17.4	0.0	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
7th Grade Science																	
Combined Population	100						10.87	15.22	32.61	19.57	21.74	19.6	34.8	41.3	4.35	0.0	
TAGG	100						16	40	24	12	8	24.0	28.0	40.0	8.0	0.0	
African American	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Hispanic	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Caucasian	100						11.36	29.55	34.09	19.70	5.30	19.5	34	43.9	2.4	0.0	
Economically Disadvantaged	100						16	40	24	12	8	20.8	29.2	41.7	8.3	0.0	
Students with Disabilities	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Limited English Proficient	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	
Female	100						11.54	30.77	30.77	19.23	7.69	21.7	43.5	34.8	0.0	0.0	
Male	100						10	35	35	15	5	17.4	30.4	47.8	0.0	4.3	
Migrant	RV						RV	RV	RV	RV	RV	RV	RV	RV	RV	RV	

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Fax Cover Letter

To: Jeremy Lasiter and Kendra Clay

Fax # 501-682-1079

From: Mike and Angie Vickers

Tommy and Connie Dean

Harley and Holly Tatom

Chad and Marcy Teague

[redacted]

Re: School Choice Materials For Appeal Hearing

Number of Pages (including cover sheet) 11

Date: 6/18/15

Comments: Please include all copies as additional materials to be viewed for Lafayette County Parents School Choice Appeal scheduled for July 9, 2015.

May 13, 2015

Office of the Commissioner

ATTN: Arkansas Public School Choice Act Appeals

Four Capitol Mall

Little Rock, AR 72201

To whom it may concern:

My name is Marcy Teague. I am writing you on behalf of myself and my husband, Chad Teague. We applied for our children (K[redacted] and [redacted] Teague) to be accepted into Taylor School in Taylor Arkansas using the School Choice Act. We currently reside in Stamps, AR which is in Lafayette County. We were denied admission because Lafayette County School District has declared exemption from the Public School Choice Act of 2015 due to the provisions of a desegregation order. I believe this order for Lafayette County should be thrown out due to the fact that the order was enforced under Lewisville School district which was dissolved in 2003. At that time Lewisville School District consolidated with Stamps School District, which is now Lafayette County School District. It was placed in order under Lewisville School District, now Lafayette County School District. I would appreciate any involvement on your part in determining its legality.

We as our children's parents only want the best education, safety, and discipline our children can receive. It is my top priority. I do not believe these demands can be met at the Lafayette County School District. I am basing my beliefs on facts. My school of choice (Taylor School) has a proven track record. Based on the last 3 years, Taylor School has ranked in the top 25 out of 247 school districts. Lafayette County has been at the bottom, ranking 219, 216, and 209 out of the same 247 districts in the last 3 years. Lafayette County has had several reported teacher/student molestation occurrences along with reported illegal drug activity on school campus. We instill stability, respect with accountability and discipline in our home and expect the same in our schools. I believe these traits can be enforced in Taylor Schools and not in the Lafayette County School District.

I am asking that this desegregation order that Lafayette County School District is using to opt of the Public School Choice Act of 2015 be dismissed based on the fact that the order was enforced under the Lewisville School District which no longer exists. I am also requesting a hearing if further appealing is needed to get my girls in my school of choice.

Sincerely,

Chad and Marcy Teague

COPY

To Whom It May Concern,

May 18, 2015

My name is Tommy Dean, and I am writing on behalf of myself and my wife, Connie Dean. We have lived in Lafayette County for 50+ years. We applied for the Public School Choice Act of 2015 for our 11 year old daughter to attend Spring Hill School District. Unfortunately, we were rejected by Spring Hill School District, due to Lafayette County School District filing a 1992 Desegregation Order with the Arkansas Department of Education. However, the 1992 Desegregation Order was filed for the Lewisville School District NOT Lafayette County School District. Lewisville/Stamps School Districts were consolidated in July 2003. Therefore, in 1992 (the year the Desegregation Order was created) the Lafayette School District was not in existence. Our question, as CONCERNED parents, is: HOW CAN A 1992 LEWISVILLE DESEGREGATION ORDER BE RECOGNIZED AS SUBMISSABLE TO THE ARKANSAS DEPARTMENT OF EDUCATION FOR LAFAYETTE SCHOOL DISTRICT? I have read the Desegregation Order, and to the best of my knowledge, it is concerning the discrimination of Lewisville School District faculty and employees, not the discrimination involving students. My wife and I feel it is our right to appeal the decision for the betterment of our daughter's education and well-being. I have done much research and found Lafayette County School District (resident school district) test scores and rankings, per websites, are not comparable to Spring Hill School District (non-resident school district). This is one of the reasons we are requesting that our daughter attend Spring Hill School District for the 2015-2016 school year and upcoming school years. The non-resident school district, Spring Hill School District, not only is achieving academically, but also, has outstanding parental involvement, a variety of extra-curriculum activities, which are supported by the students, faculty, administration, parents, and community. Also, safety/discipline issues are handled efficiently and diligently.

My wife and I do not want our daughter to attend a school that we have to worry about her safety or education. Lafayette County School District has many safety/discipline issues ranging from gangs, bullying, drugs and school employees having sexual misconduct acts with students. We have knowledge of at least 3 cases of school employees having criminal charges filed against them for sexual misconduct acts with students. THIS IS UNACCEPTABLE BEHAVIOR TO US! Furthermore, Lafayette County School District has numerous other issues that need to be reviewed besides academics, safety, and lack of discipline.

COPY

At this time, Tommy and Connie Dean, parents of a minor child, are appealing the rejection letter from Spring Hill School District, because we want the best quality education and a sound foundation of morals and values for our child.

Please accept this letter requesting an appeal hearing for Tommy and Connie Dean to remove our child from our resident school district, Lafayette County School District, to a non-resident school district, Spring Hill School District, under the Public School Choice Act of 2015.

Sincerely,

Tommy and Connie Dean

1127 Lafayette 31

Stamps, AR 71860

870-904-7542 (Tommy's Cell)

870-904-9722 (Connie's Cell)

870-533-4145 (Home after 6 p.m.)

To Whom It May Concern, May 19, 2015

We are Harley and Holly Tatom. We are the parents of three children, a 10 year old daughter, two year old son, and a one month old son. We have lived in Lafayette County for over 20 years. We applied for our daughter to attend Spring Hill School District, a non-resident school district, for 2015-2016 school year. Unfortunately, we received a rejection letter from Spring Hill School District, because Lafayette County School District, our resident school district, opted out of the Public School Choice Act of 2015. My wife and I have researched the rejection decision, and found the decision was based on a 1992 Lewisville School District Desegregation Order. The 1992 Lewisville School District Desegregation Order, based on our findings, is focused on discrimination against teachers and school employees not discrimination against students. Lewisville and Stamps School Districts consolidated in July 2003 to create Lafayette County School District. Therefore, we, Harley and Holly Tatom, are questioning the Desegregation Order Lafayette County School District has filed with the Arkansas Department of Education. How can Lafayette County School District be able to opt out of the Public School Choice Act of 2015 under a 1992 Lewisville School District Desegregation Order, when Lewisville School District hasn't been a school district over 10 years? It appears to us, as parents, Lafayette County School District **DOES NOT** have an **ACTIVE** Desegregation Order filed with the Arkansas Department of Education.

My wife and I filed our Public School Choice Act of 2015 with Spring Hill School District to remove our daughter for educational, safety, and lack of discipline reasons within the Lafayette School District. We went to educational websites to discover Lafayette County School District is ranked much lower than the other school districts in Southwest Arkansas. As for the safety and lack of discipline reasons, we have first- hand experience with these issues. Our daughter has been bullied for the biggest part of this school year. We have called numerous times and made several trips to the school, going thru the proper procedures: speaking to the teacher, principal, and superintendent, still to this day, nothing has been done to STOP THE BULLYING! This is not only lack of discipline, but VERY MUCH a safety issue!

Therefore, Harley and Holly Tatom, parents of minor children, are appealing the decision of the rejection letter from Spring Hill School District, because we, as parents, are striving for a safe environment for our children to have the opportunity to learn and achieve academic excellence.

Please accept this letter requesting an appeal hearing for Harley and Holly Tatom to remove our child from our resident school district, Lafayette County School District, to a non-resident school district, Spring Hill School District, under the Public School Choice Act of 2015.

Sincerely,

Harley and Holly Tatom

531 Lafayette 41

Buckner, AR 71827

870-953-0209 (Harley's Cell)

May 15, 2015

Samuel Ledbetter

Four Capital Mall

Little Rock, AR 72201

Dear Mr. Ledbetter,

I would like to like to introduce myself. My name is Angie Vickers. I am writing on behalf of myself and my husband Mike Vickers. We applied for our children to be able to attend Spring Hill School District in Hope Arkansas using the School Choice Act. We currently live in Buckner, AR which is in Lafayette County. We were denied the option of school choice because Lafayette County School District has declared exemption from the Public School Choice Act of 2015 due to the provisions of a desegregation court order or plan. I personally looked on the Department of Education website and found the letter written from Lafayette County School District's attorney, Allen Roberts, along with the supporting document from a lawsuit that they consider a desegregation lawsuit. I am not a lawyer; however, while looking through the lawsuit it seemed to pertain to employees and the need to make sure people were not being discriminated against in employment at this district- not in discrimination involving students. I also wanted to check on the fact that this lawsuit was from 1992. At that time there was no Lafayette County School District. In searching for information I found the agenda from the State Board of Education dated February 10, 2003 requesting that each original district (Lewisville and Stamps School Districts) form a new district effective July 1, 2003. If this lawsuit is from a time before there ever was a Lafayette County School District, how can it apply to the School Choice Act now and how can Lafayette County School District use it in order to avoid complying with the Act?

There are many reasons that we would like to be able to use the School Choice Act in order to send our children to Spring Hill Schools. First, I am currently a teacher at Spring Hill School. We have a son that is graduating this year and two younger children that attend Spring Hill Elementary. I utterly enjoy teaching at this school district. I plan to teach for many years to come; however, due to some recent health problems I am not sure what the future will hold for me. We would like for our children to be able to continue their education at Spring Hill Schools

in the event that I am no longer able to teach. The reasons for this is that the school community is outstanding, respect with accountability and discipline is part of the school culture, and this is where my children have their roots, memories, and belonging. In today's society stability is a treasure. We want the stability of our children to remain intact. They are thriving at Spring Hill Schools! Next, the school ranking of Lafayette County Schools compared to Spring Hill Schools concerns me as far as the education that my children would receive. I am basing this on the districts report cards. Next year for example our son will be in third grade and our daughter will be in seventh grade. The AMO reported for third grade literacy and math for Lafayette County is 63.47/74.15. The AMO reported for the same area for Spring Hill Schools is 90.03/91.67. The AMO reported for seventh grade literacy and math for Lafayette County is 63.47/74.15. The AMO reported for the same area for Spring Hill Schools is 90.03/91.67. The graduation rate shown on the respective reports for Lafayette County Schools is 80.4% and 97.8% for Spring Hill Schools. Finally, the safety of our children is of great concern for us. There have been a few publicized instances concerning employees of Lafayette County Schools that would cause us great concern if our children attended classes there.

In conclusion, **we respectfully ask that we be granted a hearing to reconsider the application**. Thank you very much for your time in reading this letter, and we look forward to your reply.

Sincerely,

Mike and Angie Vickers

pring Hill School District - 2906000

NDICATOR: School Performance

	2011-2012			2012-2013			2013-2014		
	School	District	State	School	District	State	School	District	State
Graduation Rate (*State Goal 85%)									
Graduation Rate Combined		93.8 %	84.1 %		[illegible]	84.9 %		[illegible]	86.9 %
Graduation Rate for Targeted Acheivement Gap Group		[illegible]	79.3 %		[illegible]	80.5 %		[illegible]	82.9 %
Graduation Rate African American		[illegible]	78.1 %		[illegible]	78.1 %		[illegible]	81.0 %
Graduation Rate Hispanic		100.0 %	78.0 %		[illegible]	81.8 %		[illegible]	84.5 %
Graduation Rate Caucasian		[illegible]	87.0 %		[illegible]	87.8 %		[illegible]	89.3 %
Graduation Rate Economically Disadvantaged		[illegible]	79.1 %		[illegible]	80.3 %		[illegible]	82.7 %
Graduation Rate Students with Disabilities		[illegible]	79.2 %		[illegible]	80.4 %		[illegible]	83.1 %
Graduation Rate Limited English Proficient		[illegible]	77.3 %		[illegible]	80.8 %		[illegible]	84.1 %
Grade Inflation Rate		[illegible]	—		[illegible]	2.51 %		[illegible]	7 %
College Remediation Rate		[illegible]	49.4 %		[illegible]	43.0 %		[illegible]	45.4 %
Enrollment									
October 1 Enrollment		[illegible]	468,656		[illegible]	471,867		[illegible]	474,995

IDICATOR: School Performance

	2011-2012			2012-2013			2013-2014		
	School	District	State	School	District	State	School	District	State
raduation Rate (*State Goal 85%)									
aduation Rate Combined	82.6 %	[illegible]	84.1 %	96.9 %	[illegible]	84.9 %	100.0 %	[illegible]	86.9 %
radvation Rate for Targeted Acheivement Gap Group	70.0 %	[illegible]	79.3 %	88.9 %	[illegible]	80.5 %	100.0 %	[illegible]	82.9 %
raduation Rate African American	66.7 %	[illegible]	78.1 %	100.0 %	[illegible]	78.1 %	100.0 %	[illegible]	81.0 %
raduation Rate Hispanic	0.0 %	[illegible]	78.0 %	0.0 %	[illegible]	81.8 %	0.0 %	[illegible]	84.5 %
raduation Rate Caucasian	85.0 %	[illegible]	87.0 %	96.3 %	[illegible]	87.6 %	100.0 %	[illegible]	89.3 %
raduation Rate Economically Disadvantaged	79.0 %	[illegible]	79.1 %	68.9 %	[illegible]	80.3 %	100.0 %	[illegible]	82.7 %
raduation Rate Students with Disabilities	50.0 %	[illegible]	79.2 %	0.0 %	[illegible]	80.4 %	100.0 %	[illegible]	83.1 %
raduation Rate Limited English Proficient	0.0 %	[illegible]	77.3 %	0.0 %	[illegible]	80.8 %	0.0 %	[illegible]	84.1 %
rade Inflation Rate	—	[illegible]	—	0 %	[illegible]	2.51 %	0 %	[illegible]	7 %
ollege Remediation Rate	—	[illegible]	49.4 %	26.3 %	[illegible]	43.0 %	55.6 %	[illegible]	45.4 %
nrollment									
ctober 1 Enrollment	152	[illegible]	468,656	149	[illegible]	471,867	144	970	474,995

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Lafayette County School District - 3704000

INDICATOR: School Performance

	2011-2012			2012-2013			2013-2014		
	School	District	State	School	District	State	School	District	State
Graduation Rate (*State Goal 85%)									
Graduation Rate Combined		[illegible]	84.1 %		[illegible]	84.9 %		[illegible]	86.9 %
Graduation Rate for Targeted Achievement Gap Group		[illegible]	79.3 %		[illegible]	80.5 %		[illegible]	82.9 %
Graduation Rate African American		[illegible]	78.1 %		[illegible]	78.1 %		[illegible]	81.0 %
Graduation Rate Hispanic		[illegible]	78.0 %		[illegible]	81.8 %		100.0 %	84.5 %
Graduation Rate Caucasian		[illegible]	87.0 %		[illegible]	87.6 %		[illegible]	89.3 %
Graduation Rate Economically Disadvantaged		[illegible]	79.1 %		[illegible]	80.3 %		[illegible]	82.7 %
Graduation Rate Students with Disabilities		[illegible]	79.2 %		[illegible]	80.4 %		100.0 %	83.1 %
Graduation Rate Limited English Proficient		[illegible]	77.3 %		[illegible]	80.8 %		0.0 %	84.1 %
Grade Inflation Rate		[illegible]	---		[illegible]	2.51 %		[illegible]	7 %
College Remediation Rate		[illegible]	49.4 %		[illegible]	43.0 %		[illegible]	45.4 %
Enrollment									
October 1 Enrollment		[illegible]	488,656		[illegible]	471,867		[illegible]	474,995

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RESPONSE

SPRING HILL SCHOOL DISTRICT
633 HWY 355 WEST
HOPE, AR 71801

Angie Raney, Superintendent
Office #870-777-8236
FAX #870-777-9200
E-Mail: angie.raney@springhill.k12.ar.us

RECEIVED
COMMISSIONER'S OFFICE
JUN - 1 2015
DEPARTMENT OF EDUCATION

May 26, 2015

RECEIVED
ATTORNEY'S OFFICE
JUN 01 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

Mr. Johnny Key
Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, Arkansas 72201

Dear Mr. Key:

This letter is written in response to the email notification from Jeremy Lasiter dated May 26, 2015 regarding an appeal from the Dean and Tatom families due to the denial of their school choice application to our district.

According to Public School Choice Act of 2015, nonresident school districts have no choice but to deny school choice applications when said resident district has filed appropriate paperwork regarding a desegregation order to Arkansas Department of Education. Due to this reason, the Spring Hill School District denied the school choice applications turned in by the Dean and Tatom families who were applying for school choice from the Lafayette County School District.

If this matter needs further attention from our school district, please let me know.

Sincerely,

Angie Raney

Angie Raney, Superintendent

Spring Hill School District No. 10
633 Highway 355 West
Hope, Arkansas 71801

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Mr. Johnny Key
Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

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FUQUA CAMPBELL, P.A.

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Direct Dial: (501) 975-7122
Email: wmoore@fc-lawyers.com

June 19, 2015

VIA HAND-DELIVERY
Mr. Jeremy Lasiter
Attn: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, Arkansas 72201

Re: Lafayette County School District (Resident District)
Spring Hill School District (Non-Resident District)
Public School Choice Act of 2015 Appeals submitted by the Dean, Tatom, and Vickers families

Dear Mr. Lasiter:

Allen Roberts and I represent Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003.

LCSD is the resident district involved in the aforementioned Public School Choice Act of 2015 appeals filed by the Dean, Tatom, and Vickers families, all of whom applied for transfer to Spring Hill School District (SHSD). SHSD correctly denied all of the transfer requests based on LCSD's declaration of a conflict pursuant to Ark. Code Ann. 6-18-1906(a). In compliance with Ark. Code Ann. 6-13-113(b) and 6-18-1906(a)(2), LCSD has submitted to the Department of Education a copy of the consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div., which is a desegregation court order that conflicts with LCSD's participation in school choice.

Pursuant to your notice of hearing letter dated June 3, 2015, I would like to submit the following materials for consideration at the State Board of Education's July 9, 2015 meeting:

1. The resolution adopted by LCSD's board regarding LCSD's decision not to participate in school choice (**Exhibit 1**).
2. The April 21, 2015 letter from Allen Roberts regarding LCSD's decision not to participate in school choice (**Exhibit 2**).
3. The March 4, 1993 consent decree in *Turner et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div (**Exhibit 3**).
4. Former Attorney General Mike Beebe's September 24, 2003 opinion regarding the State Board of Education's authority to construe court orders (**Exhibit 4**).
5. A power of attorney signed by Gary and Connie Dean granting consent and permission to Wayne and/or Elsie Halbert regarding educational decisions for the Deans' minor child (**Exhibit 5**).

The appeals question the validity of the order in *Turner*. There is no indication from the 2015 Act (nor from its predecessor, the Public School Choice act of 2013) that the legislature intended for the State Board of Education to review the propriety of a conflict claimed by a district pursuant to Ark. Code Ann. 6-18-1906(a). There is no provision in the Act that authorizes the Department or the State Board to approve or deny a district's submission. The Act only provides opportunity for a district to claim a conflict and provide the Department of Education with a copy of the conflicting order, which LCSD has done.

An Attorney General's opinion issued in 2003 regarding the School Choice Act of 1989 directly addresses the question of whether the State Board should review and interpret federal court orders. On September 24, 2003, the Attorney General's office wrote to then ADE director, Ray Simon, in Opinion No. 2003-269. Mr. Simon had asked whether or not the State Board of Education had the legal authority to decide whether a district could accept students outside the parameters of the 1989 Act "as long as the district is in compliance with the requirements of the assumed U.S. District Court Order?" (Exhibit 4, p. 2). Attorney General Beebe makes clear in the opinion that the State Board of Education should not seek to interpret federal court orders, stating:

> In my opinion the state Board of Education does not have authority to determine that a school district 'is in compliance with the Arkansas School Choice Act' where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision.

The opinion concludes with the note that disputes involving construction of federal court orders are properly left to the parties themselves, their respective counsels, or if necessary, to the issuing court itself. (Exhibit 4, p. 5).

The *Turner* case was filed by a black staff member and black parents of children attending Lewisville School District. (Exhibit 3, p. 1). Paragraph 4 of the decree specifically references "racial discrimination in . . . student assignment." (Exhibit 3, p. 2). Paragraphs 2 and 3 also address discrimination against students on the basis of race. (Exhibit 3, p. 2). Paragraph 12 requires the desegregation of all classes, programs, and activities offered by the district. (Exhibit 3, p. 5). The consent decree concludes by stating, in paragraph 18, that "the Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." (Exhibit 3, p. 6). As noted by Mr. Roberts in Exhibit 2, the desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (i.e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding. To the best of LCSD's knowledge, this is the last order entered in the case. There are no orders dismissing the case or declaring that LCSD is unitary.

The structure of the Act also strongly suggests that the assertion of a conflict is not appealable because there is no provision in either the Act or the emergency rules that the resident district do anything when the non-resident district denies the application. This logically should mean that appeals are limited to issues such as enrollment caps and capacity issues. The applications were denied solely due to LCSD's conflict, not due to capacity or enrollment caps.

The Act also lacks any provision for the resident district to be heard as a party on appeal. If an appeal of the asserted conflict was contemplated, then party status would have been accorded the resident district. Because it was not, consideration of an appeal on those grounds without providing for party status for the resident district would result in a denial of procedural and substantive due process to the resident district.

The appeals state various reasons why these families would like to leave LCSD and enroll their children in SHSD. However, none of those reasons override the federal court order presented by LCSD, as permitted by the Act.

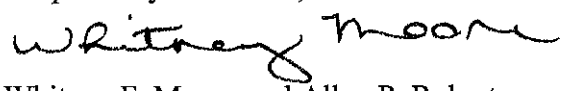
With respect to the appeal of Gary and Connie Dean, the Deans previously provided LCSD with a copy of a power of attorney executed May 13, 2014. The power of attorney was provided to LCSD as the basis for the Deans' child to attend SHSD. The Deans expressly revoked their right to make "enrollment" and "admission" decisions for the child and ceded those rights to Wayne and/or Elsie Halbert, who are not parties to this appeal. There is no indication that the power of attorney has been revoked. For these reasons, the Deans' appeal should be denied because they did not have the authority to apply for a school choice transfer.

With respect to the appeal of Mike and Angie Vickers, the Vickers children are already enrolled in SHSD, pursuant to Ark. Code Ann. 6-18-203, which allows a non-resident school employee to enroll her children in the non-resident/employer district.

LCSD does not contest the legality of the Vickers children's attendance at SHSD based on the employment of their mother. However, LCSD submits that a school choice application is premature and not ripe for the Board's consideration in light of their present enrollment in SHSD pursuant to their mother's employment with SHSD.

For the foregoing reasons, the Dean, Tatom, and Vickers appeals should be denied. We appreciate your consideration of this response and request an opportunity to be heard at the hearing.

Respectfully submitted,



Whitney F. Moore and Allen P. Roberts
Attorneys for Lafayette County School District

cc: Robert Edwards, Superintendent
Lafayette County School District
712 Chestnut Street
Lewisville, AR 71845

Allen P. Roberts
Allen P. Roberts, P.A.
P.O. Box 280
Camden, AR 71711

Angie Raney, Superintendent
Spring Hill School District
633 Highway 355 West
Hope, AR 71801

Tommy and Connie Dean
1127 Lafayette 21
Stamps, AR 71860

Harley and Holly Tatom
531 Lafayette 41
Buckner, AR 71827

Mike and Angie Vickers
356 Lafayette 43
Buckner, AR 71827

LAFAYETTE COUNTY SCHOOL DISTRICT
REGULAR SCHOOL BOARD MEETING
TUESDAY, MARCH 17, 2015 6:00p.m.
BOARD OF EDUCATION BUILDING

The Lafayette County School District Board of Education met in Regular School Board Meeting Tuesday March 17, 2015, 6:00P.M. in the Board of Education Building. Members present were Lindsay Nutt, Brad Lloyd, Tonya Clark, Frank Herrera, Robert Thomas and Dena McClendon.

President Lindsay Nutt called the meeting to order.

Mr. Robert Thomas made a motion to approve the February 17, 2015 Regular Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the March 10, 2015 Special Board Minutes. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to approve the monthly financial obligations. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Laura Blakley, representing the classified and certified PPCs, presented new proposed personnel policies and changes 3.6, 3.16, 3.19, 3.30, 3.31, 3.38, 3.44, 3.46, 3.49, 3.52, 8.11, 8.13, 8.24, 8.26, 8.28, 8.36, 8.38 and 8.41 (attached). The PPC countered the new proposed policy changes to 3.46 and 8.38 in favor of keeping the established policies currently in place. Mr. Robert Edwards then presented new proposed policies and changes 1.2, 1.19, 1.20, 4.2, 4.4, 4.7, 4.8, 4.11, 4.13, 4.15, 4.18, 4.22, 4.32, 4.37, 4.47, 4.55, 4.56.2F, 4.57, 4.58, 6.5, 7.5, and 7.15 (attached). Ms. Tonya Clark made a motion to approve the proposed policies and the PPC's counter of keeping policies 3.46 and 8.38 as the original policy. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Angelo Conti presented the board with a quote from Smoothwall for Web Filter protection. Mr. Frank Herrera made a motion to accept the bid from Smoothwall for one system with annual payments of $2,345.61 for 5 years. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Discussion of the rental of school facilities was tabled until the April Board Meeting.

Mr. Robert Thomas made a motion to approve the proposed 2015-2016 School Year calendar. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the 2015-2016 Salary Schedules. Mr. Frank Herrera seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to accept the 2015-2016 Additional Hourly Rate Schedules. Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Thomas made a motion to accept the Public School Choice Resolution (attached). Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards presented the board with information regarding the Second Chance Program for the board to review. No action was taken.

Mr. Robert Edwards presented the board with the summer work schedule. Starting June 1, 2015 hours will be Monday through Thursday 7:00 a.m. to 5:00 p.m.

Ms. Lindsay Nutt reminded the board of upcoming board financial training that will be presented by Mr. Ray Beardsley on March 31st, 2015 at 6:00PM.

Ms. Tonya Clark made a motion to stop collecting rent on the 803 Chestnut Street Property effective April 1, 2015 until September 1, 2015 at which time the property must be vacated and the property will be demolished. Mr. Frank Herrera seconded that motion. Motion passed. Vote 6-0.

Ms. Tonya Clark made a motion to rescind the QUITCLAIM Deed of May 21, 2013 that was approved by the Lafayette County School Board and supposed to be issued to South Arkansas Youth Services, Inc., hereby canceling any and all claims by SAYS to the Stamps old gymnasium, auditorium and elementary school. Mr. Robert Thomas seconded the motion. Motion passed. Vote 6-0.

Mr. Robert Edwards gave an update on facilities stating that the Wall Pac lights are being moved from Stamps to Lewisville Gym. Thursday, March 19, 2015, supplies will be delivered for the projects to be completed that were deficiencies noted in the CTE inspection. Four cameras went out during the ice storm at the High School. Angelo Conti will be meeting with B&D Electric on Wednesday, March 18, 2015 to check on surge protection. Wall Pac lights at the Cougar Arena are next on maintenance's agenda to work on. The Crepe Myrtles on the Elementary Campus are being trimmed.

The Board entered Executive Session. The Board re-entered Open Session.

Mr. Robert Thomas made a motion to accept the resignation of the following employees:
Rose Ellen Woods, Kindergarten teacher,
Diana Stanley, High School Paraprofessional,
Pat Kimbell, High School Nurse.
Mr. Brad Lloyd seconded the motion. Motion passed. Vote 6-0.

EXHIBIT 1

Mr. Robert Thomas made a motion to hire the following administrative staff for the 2015-2016 school year:
Betsy Griffin, Elementary Principal
Opal Anderson, High School Principal
Cheryl McMahen, Elementary Assistant Principal
Janet Walker, Federal Programs Coordinator
Ms. Tonya Clark seconded the motion. Motion passed. Vote 6-0.

There being no further business, the meeting was adjourned.

President

Secretary

EXHIBIT 1

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1*, No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD (*i.e.*, the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

EXHIBIT 2

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District

Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

EXHIBIT 3

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

EXHIBIT 3

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

EXHIBIT 3

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

EXHIBIT 3

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

EXHIBIT 3

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

EXHIBIT 3

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72014
LASER, SHARP, MAYES, WILSON, BUFFORD
& WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP.

on _____ by _____

EXHIBIT 3

Opinion No. 2003-269

September 24, 2003

Mr. Raymond Simon, Director
Arkansas Department of Education
#4 Capitol Mall
Little Rock, Arkansas 72201-1071

Dear Mr. Simon:

I am writing in response to your request for an opinion on several questions relating to the "Arkansas Public School Choice Act of 1989," as amended. Specifically, you pose the following questions, which I have numbered below:

1. Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

2. In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

3. Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance

EXHIBIT 4

> with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

RESPONSE

I cannot provide an answer to your first and second questions, because the answer will depend upon the provisions of the applicable U.S. District Court order. In my opinion the answer to your third question is "no," the State Board of Education does not have this authority.

Question 1-- Assuming that an Arkansas public school district is subject to the authority of a U.S. District Court order requiring that to the extent the school district accepts student transfers from outside the district those transfers must be accepted in a nondiscriminatory manner, can that school district participate in the Arkansas School Choice Act codified at Ark. Code Ann. § 6-18-206?

Question 2-- In other words, if a school district is subject to a U.S. District Court order requiring the district to accept students on a nondiscriminatory basis, can that school district accept students into the district irrespective of § (f) of Ark. Code Ann. § 6-18-206?

The "Arkansas Public School Choice Act of 1989" is codified at A.C.A. § 6-18-206. It has been amended several times since its original adoption, most recently by Act 1272 of 2003. This most recent act requires all school districts to participate in public school choice, rather than making such participation optional with each school board, as under prior law. The applicable statute sets out a procedure for a student or his or her parent or guardian to make application for a transfer of school districts. The statute also sets out, among other things, requirements pertaining to student transportation and the treatment of "state equalization aid" with regard to transferring students. Subsection (f) of the statute, which you reference in your request, provides as follows:

> (f) The provisions of this section and all student choice options created in this section are subject to the following limitations:
>
> (1) No student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that

percentage in the student's resident district except in the circumstances set forth in subdivisions (2) and (4) of this subsection;

(2) A transfer to a district is exempt from the restriction set forth in subdivision (f)(1) of this section if the transfer is between two (2) districts within a county, and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and non-resident district remain within an acceptable range of the county's overall minority percentage in the student's race and majority percentages of school population as set forth by the department;

(3) The department shall, by the filing deadline each year, compute the minority percentage in the student's race and majority percentages of each county's public school population from the October Annual School Report and shall then compute the acceptable range of variance from those percentages for school districts within each county. In establishing the acceptable range of variance, the department is directed to use the remedial guideline established in Little Rock School District v. Pulaski County Special School District of allowing an overrepresentation or underrepresentation of black or white students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance. In establishing the acceptable range of variance for school choice, the department is directed to use the remedial guideline of allowing an overrepresentation or underrepresentation of minority or majority students of one-fourth (1/4) or twenty-five percent (25%) of the county's racial balance;

(4) A transfer is exempt from the restriction set forth in subdivision (f)(1) of this section if each school district within the county does not have a critical mass of minority percentage in the student's race students of more than ten percent (10%) of any single race;

(5) *In any instance where the foregoing provisions would result in a conflict with a desegregation court order or a district's court-*

> *approved desegregation plan, the terms of the order or plan shall govern;*
>
> (6) The department shall adopt appropriate rules and regulations to implement the provisions of this section; and
>
> (7) The department shall monitor school districts for compliance with this section.

A.C.A. § 6-18-206 (f), as amended by Act 1272 of 2003 (emphasis added).

The emphasized language of subsection (f)(5) above provides for the supremacy of a desegregation orders or court-approved desegregation plans in the case of a "conflict" between such orders and plans, on the one hand, and the "foregoing" provisions of A.C.A. § 6-18-206(f), which outline racial limitations and exceptions on transfers. Conceivably, therefore, a federal court order could, depending upon its provisions, have controlling effect over the provisions of A.C.A. § 6-18-206(f). The question in each instance will be whether the statutory provisions above actually conflict with any such a federal court order. Resolution of that type of question will depend upon the provisions of the order in question and any and all other pertinent facts and laws. I cannot determine this issue in the context of an official Attorney General opinion. As one of my predecessors stated in Op. Att'y Gen. 95-066:

> The construction of such [federal court] orders and agreements is best left to the parties themselves, or ultimately to the federal court. This office has not been provided with a copy of any federal court order or settlement agreement, and cannot, in the context of an official opinion of the Attorney General, especially where the state is not a party, presume to dictate actions to be taken under the rubric of such documents.

Id. at 2. *See also* Op. Att'y Gen. 94-139 (declining to interpret a federal court order and stating that "reference to th[e] particular court order, and possibly clarification from the federal court, would be necessary to resolve the issue conclusively).

I am therefore unable to render an opinion on your first and second questions above.

EXHIBIT 4

Question 3-- Finally, to the extent that two school districts come in conflict regarding any students that have been accepted into the district under the previously assumed U.S. District Court order and those districts petition the State Board of Education for resolution of that issue pursuant to Ark. Code Ann. § 6-18-206(g), does the State Board of Education have the necessary legal authority to decide that a school district is in compliance with the Arkansas School Choice Act and may accept students outside of the racial parameters called for in Ark. Code Ann. § 6-18-206 as long as the district is in compliance with the requirements of the assumed U.S. District Court order?

Subsection (g) of A.C.A. § 6-18-206 provides that: "[t]he state board shall be authorized to resolve disputes arising under subsections (b) – (f) of this section."

In my opinion the State Board of Education does not have authority to determine that a school district "is in compliance with the Arkansas School Choice Act" where in order to do so, the Board would have to construe the provisions of a federal district court order and make a determination that it supersedes the racial limitations in subsection (f) of the Arkansas Public School Choice Act. This is essentially a judicial decision. *Cf. State Police v. McCall*, 98 A.D.2d 921, 470 N.Y.S.2d 916 (1983) ("State Human Rights Appeal Board" (a state administrative agency), did not exceed its jurisdiction in construing federal district court order, but only because its decision was supported by other documentary proof and board did not base its decision solely on an interpretation of federal court order).

Disputes involving construction of federal court orders are properly left to the parties thereto, and their respective counsels, or if necessary, to the issuing court itself.

Deputy Attorney General Elana C. Wills prepared the foregoing opinion, which I hereby approve.

Sincerely,

MIKE BEEBE
Attorney General

MB:ECW/cyh

EXHIBIT 4

POWER OF ATTORNEY FOR MINOR

TO ALL WHOM THESE PRESENTS ARE KNOWN:

That We, Gary T. Dean, Jr. and/or Connie A. Dean, of LAFAYETTE County, Arkansas, being the natural Father and Mother of [redacted] Dean, [hereafter the "child"] appoint Wayne and/or Elsie Halbert of LAFAYETTE County, Arkansas, my true and lawful attorney-in-fact for me and in my name, place and stead and in my behalf, and to do and perform all of the following responsibilities and have all the rights in connection therewith:

1. Perform and act as and for me in a parental capacity as and to the child;
2. Give consent and permission for any kind of medical care and treatment, and to sign any papers to have the child admitted to a hospital for such purpose, or as may be required to maintain the health of the child;
3. Give consent and permission for enrollment in and admission to school and to resolve problems arising from school attendance, and to sign any papers necessary for such purpose or sign other documents relating to the child's welfare at school;
4. Perform any act necessary to obtain relief or aid that might benefit the child;
5. Perform any other acts for support, health, and general care of the child as may be required or necessary.
6. We, Gary T. Dean, Jr. and/or Connie A. Dean, do hereby give and grant to Wayne and/or Elsie Halbert, my said Attorney-in-fact, full power and authority to do and perform any and all acts required to protect and promote the welfare of the child, as fully and for all intents and purposes as I might or could do if I were personally present at the time thereof, hereby ratifying and confirming all that my said Attorneys may or shall lawfully do or cause to be done by virtue of this Power-of-Attorney and the rights and powers herein granted.
7. It is not my intention to relinquish my parental rights in and to my child.

IN TESTIMONY WHEREOF, We have hereunto set our hands this 13th day of May, 2014.

GARY T. DEAN, JR.

CONNIE A. DEAN

870-904-9772

EXHIBIT 5

ASSOCIATED DOCUMENTS

June 5, 2015

Office of the Commissioner

ATTN: Kendra Clay

Four Capital Mall

Little Rock, AR 72201

Dear Ms. Clay,

Per our phone conversation today, June 5, 2015, the parents, who were denied admission into the Spring Hill School District, are requesting one appeal hearing before the Arkansas State Board of Education. We, the parents of Lafayette County School District, were denied by Spring Hill School District on the claim of a desegregation order filed by Lafayette County School District. The parents, who are requesting one appeal hearing before the Arkansas State Board of Education, are as follows:

Tommy and Connie Dean

Mike and Angie Vickers

Harley and Holly Tatom

Thank you in advance for your cooperation on this request.

Sincerely,

Connie Dean

Connie Dean

ALLEN P. ROBERTS, P.A.
ATTORNEY AT LAW
325 Jefferson Street S. W., P.O. Box 280
Camden, Arkansas 71711-0280
allen@aprobertslaw.com
Telephone: (870) 836-5310 Facsimile: (870) 836-9662

April 21, 2015

SENT VIA REGULAR MAIL
AND EMAIL (jeremy.lasiter@arkansas.gov)
Jeremy C. Lasiter, General Counsel
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, Arkansas 72201

Re: Act 560 of 2015

Dear Jeremy:

I am writing as the attorney for Lafayette County School District (LCSD). LCSD is the successor to Lewisville School District and Stamps School District, which were consolidated into a single district by the State effective July 1, 2003. The LCSD school board has again opted for the district to not participate in school choice under the 2013 Act, as amended in 2015. The reason is that LCSD is a party to a desegregation lawsuit that is still active: *Turner, et al. v. Lewisville School District No. 1,* No. 92-4040, U.S. Dist. Ct., W.D. Ark., Texarkana Div. The desegregation obligations of this case prohibit LCSD from taking any action, or refraining from taking any action, the natural and probable consequence of which would be a segregative impact within LCSD *(i.*e., the creation, maintaining, or increasing of racially identifiable schools). Permitting school choice under the 2013/2015 Act would have such an impact. Allowing school choice would, therefore, be in conflict with LCSD's desegregation obligation still outstanding.

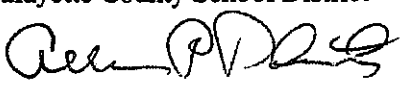
In that same regard, I am enclosing an order from this case to support this letter. I am informed that this is the most recent order in the *Turner* case. However, my client has placed a purchase order with the federal archive for the court file, which will be available to you as soon as I have it. I believe all the information requested by Ark. Code Ann. §6-13-113(b) is included in the enclosure. If not, please let me know and I'll furnish it. I know review of these old desegregation lawsuit files is impractical, and sometimes impossible, because of their age and volume. Therefore, I hope the Court's general retention of jurisdiction in the enclosed order will

suffice for this purpose. ("The Court shall have continuing jurisdiction of this consent decree in order to insure compliance with the spirit and terms of this Decree." *Turner* case Decree, paragraph 18, p. 6 of enclosure.) As stated, this order is enclosed.

Thank you very much.

Sincerely,

Lafayette County School District



Allen P. Roberts
Attorney for Lafayette County School District

APR/arl

pc: Robert Edwards
LCSD Superintendent of Schools

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MARY TURNER, ET AL. PLAINTIFFS

VS. NO. 92-4040

LEWISVILLE SCHOOL DISTRICT NO. 1, ET AL. DEFENDANTS

CONSENT DECREE

This civil proceeding was brought pursuant to 42 U.S.C. § 1343 for the purpose of securing relief as provided by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. §§ 1981 and 1983. This proceeding was commenced as a result of the plaintiffs filing a compliant against the defendants in this Court on April 16, 1992, and the defendants being properly served, filed its answer on or about May 7, 1992.

Whereas, the defendants admit the jurisdictional allegation contained in the plaintiff's complaint, and that this Court has jurisdiction over the parties and subject matter filed herein.

Whereas, the plaintiff, Mary Turner, is an African-American/black school staff member, and the rest of the plaintiffs are black parents or guardians of minor school aged children who reside within the Lewisville School District No. 1.

Whereas, the defendants deny that they have discriminated against the plaintiffs.

Whereas, the parties are desirous of settling this litigation without the need for further expenses; and

Whereas, the parties agree to the entry of this Consent Decree and consent to be bound thereby; and

PLAINTIFF'S EXHIBIT 1

Whereas the consent by the defendants to the entering of this Consent Decree shall not be deemed to be an admission by the defendants of the truth of any of the allegations contained in the complaint; now therefore it is:

ORDERED that a final judgment is hereby entered in this matter as follows:

1. The Court finds that it has jurisdiction over the defendants and the subject matter.

2. The defendants are enjoined from denying any of the plaintiffs, students, faculty, and staff any applicable rights provided for by the 14th Amendment and 42 U.S.C. §§ 1981, 1983 and 2000(e).

3. The defendants are enjoined from allowing a racially discriminatory environment to exist within the school district.

4. The defendants are further enjoined from engaging in any policies, practices, customs or usages of racial discrimination in any school operation including, but not limited to, faculty assignments, student assignments, and the treatment of black and other minority pupils within the school system.

5. The defendants shall develop and hereafter utilize objective, nondiscriminatory, job-related employment criteria in the recruitment, selection, placement, promotion, pay, demotion, evaluation, and/or termination of school staff members. Example of objective criteria includes certification, education and previous teaching experience. In this respect, the school district shall develop and implement plans for increasing the proportion of black

staff at all levels and in all employment categories so that it may be determined that no positions within the district are reserved or preferred for one race or the other. It shall be the objective of this school district to obtain a balanced faculty, which bears a reasonable relationship to the proportion of black pupils within the district. Redress of any under-representation of black staff shall be an immediate priority of the district.

6. The defendant district shall develop and implement hereafter a policy for promotion of employees which is fair to the incumbent staff, students, and other prospective qualified applicants. Said policy shall be implemented through use of objective, written, pre-determined, job-related criteria referred to in Paragraph 4, supra. Any subjective employee promotional criteria which are utilized by the district must be written and pre-announced so that they may be applied equally to all employees. Any subjective criteria utilized by the district must, also, be related to the job or task involved and may not, otherwise, impede achievement of a fully desegregated staff now and in the future.

7. Pursuant to the district's objective in obtaining a racially balanced faculty, the school district will have a policy of and will make a good faith effort to have all non-administration positions which are specialty in nature (i.e. coaches, departmental heads, band directors, etc.) racially representative of the district's pupil population. In order to facilitate this objective, the school district shall invite applications for vacancies and compile a list of persons who are deemed qualified

and interested in placement therein. it shall use that list, with appropriate periodic updating from applicants from outside the district's employ, for purposes of filling the vacancies.

8. The defendant district shall take affirmative steps to insure that black staff and faculty members are distributed throughout all course and programs of the system.

9. Except in emergency situations, the defendant school district shall post conspicuous notices of all future employment vacancies in each school building office for a period of not less han fifteen (15) days prior to filling the vacancy. The posted notices should include, at the minimum, the title of the position, its duties and responsibilities, qualifications desired, and the date by which the position will be filled. The posted notice shall also include the objective and subjective employment criteria which must be met in order for an applicant to be deemed qualified.

10. The school district shall endeavor in good faith to eliminate any student placement or assignment policy or practice such as "tracking," "assignment by ability grouping," or disproportionate placement in special education.

11. The defendant school district has an African American student population of 58%. African American students now constitute 70% of the students placed into special education classes. There may be evidence of similar disproportionalities in other programs, classes or activities. The defendant school district shall review such evidence with the objective of alleviating such disparities. It shall work with counsel for the plaintiffs

and the Equity Office of the State Department to achieve these objectives.

12. The district shall also eliminate any student assignment or school involvement criteria which are tied to one's socio-economic status. All classes, programs, and/or activities of the district shall be desegregated and integrated in fact including, but not limited to, gifted and talented classes, advanced placement classes, the cheerleaders, basketball teams, Beta type clubs and referrals to Governor's school, Boy's State and Girl's State.

The desegregation and integration policy of the district shall be effectively communicated to all staff and students. It shall be one which promotes pupil and staff integration rather than one of passive acceptance of desegregation between students of all races without regard to socio-economic status. It is referred to in Paragraph 13, infra, as one of "affirmative inclusion."

13. The district shall hereafter maintain a unitary, racially non-discriminatory school system wherein all schools are effectively and equitably desegregated and integrated. All school programs, activities, assignments, and rewards shall be conducted and extended pursuant to an affirmative inclusion policy which maximizes bi-racial pupil and staff participation.

14. The district shall hereafter establish and implement discipline policies which do not adversely and disparately impact in practice and implementation upon black pupils. Discipline herein is inclusive of any adverse consequence imposed by the district upon a student. The district shall, also, keep

appropriate records regarding all students discipline.

15. The district shall initiate an inservice training program in order to enhance the capacity and effectiveness of teachers in the handling and teaching of children from differing racial and socio-economic backgrounds, and in order to promote understanding of the expectations of an equitable, fully integrated school system. These programs conducted shall be under the authority of the school superintendent or his designee.

16. The district shall not engage in, nor knowingly allow any school employee to engage in, any conduct which is retaliatory in nature toward any person who has been a party or principal supporter of this action.

17. The defendant school district retention rate for African American students in kindergarten and in first grade is disproportionate to the numbers of the African American student population, being that African American students constitute 86% of the students retained in kindergarten and 77% of the students retained in first grade. The district shall have a heavy burden, characterized by objective criteria, in justifying the retention of any student. Racial disproportionality shall not be tolerated unless strong evidence supports the necessity therefor.

18. The Court shall have continuing jurisdiction of this Consent Decree in order to insure compliance with the spirit and terms of this Decree. The defendant shall make annual reports of their progress herein to counsel for the plaintiffs on or before

December 15th of each year, for the next three years beginning December 15, 1993. In the event that plaintiffs have any objections to any matter contained in said reports, the plaintiffs shall seek to resolve their differences with the defendants voluntarily and promptly. If the parties are unable to resolve their differences, however, the plaintiffs may make application to the court for consideration.

ORDERED that, prior to seeking Court intervention, counsel for the plaintiffs shall endeavor to resolve any allegations of noncompliance informally.

U. S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 05 1993

CHRIS R. JOHNSON, CLERK
Deputy Clerk

U. S. DISTRICT JUDGE

DATE: March 4, 1993

APPROVED: BY

John W. Walker #64046

Austin Porter, Jr. #86145
JOHN W. WALKER, P.A.
1723 Broadway
Little Rock, AR 72206
(501) 376-3758
ATTORNEYS FOR PLAINTIFFS

Dan F. Bufford #72014
LASER, SHARP, MAYES, WILSON, BUFFORD
& WATTS, P.A.
One Spring Street, Suite 300
Little Rock, AR 72201
(501) 376-2981
ATTORNEY FOR DEFENDANTS

This order entered on docket in compliance with Rules 79 (a), FRCP,

on _____ by _____

SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection and applies for a school choice transfer under § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(3) A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under subdivision (c)(2) of this section may complete all remaining school years at the nonresident district.

SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to read as follows:

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district ~~with a copy to~~ ,which shall notify the resident district of the filing of the application;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) A nonresident district that receives an application under subsection (a) of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

(c) A nonresident district shall review and make a determination on each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

1 ~~subsection is irrevocable for one (1) year from the date the school district~~
2 ~~notifies the Department of Education of the declaration of exemption.~~
3 ~~(B) After each year of exemption, the board of directors~~
4 ~~may elect to participate in public school choice under this section if the~~
5 ~~school district's participation does not conflict with the school district's~~
6 ~~federal court-ordered desegregation program.~~
7 ~~(3) A school district shall notify the department by April 1 if~~
8 ~~in the next school year the school district intends to:~~
9 ~~(A) Declare an exemption under this section; or~~
10 ~~(B) Resume participation after a period of exemption.~~
11 ~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit
12 on school choice transfers each school year from a school district, less any
13 school choice transfers into the school district, under this section of not
14 *more than three percent (3%) of the* ~~*school district's three-quarter average*~~
15 ~~*daily membership for the*~~ *enrollment that exists in the school district as of*
16 *October 15 of the immediately preceding school year.*
17 (B) For the purpose of determining the percentage of school
18 choice transfers under this subsection, siblings who are counted in the
19 numerator as transfer students shall count as one (1) student~~, and siblings~~
20 ~~who are counted in the denominator as part of the average daily membership~~
21 ~~shall count as one (1) student~~.
22 (C) A student eligible to transfer to a nonresident
23 district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count
24 against the cap of three percent (3%) of the resident or nonresident
25 district.
26 (2) Annually by ~~June 1~~ *December 15*, the department shall report
27 to each school district the net maximum number of school choice transfers for
28 the ~~current~~ next school year.
29 (3) If a student is unable to transfer due to the limits under
30 this subsection, the resident district shall give the student priority for a
31 transfer in the ~~following~~ first school year in which the district is no
32 longer subject to subdivision § (b)(1) of this section in the order that the
33 resident district receives notices of applications under § 6-18-1905, as
34 evidenced by a notation made by the district on the applications indicating
35 date and time of receipt.
36

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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A.C.A. § 6-18-1901

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1905

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A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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Title 6 Education
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A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY				
Date and Time Received by Resident District:			Date and Time Received by Nonresident District:	
Resident District LEA #:			Nonresident District LEA#:	
Student's State Identification #:				
Application	Accepted		Rejected	
Reason for Rejection (If Applicable):				
Date Notification Sent to Parent/Guardian of Applicant:				
Date Notification Sent to Resident District :				

ROBERT A. WATSON
104 Timber Hills Drive
El Dorado, Arkansas 71730
(870) 862-4604
Email: Lvoris@esd-15.org

December 16, 2011

Allen P. Roberts
Allen P. Roberts, P.A.
325 Jefferson Street
Camden, AR 71701

Dear Mr. Roberts:

I am Bob Watson. I am responding to your request that I write a report stating my opinions and observations about the impact of the racial restriction in the Arkansas School Choice Act of 1989 on El Dorado School District and other similarly situated districts in South Arkansas. You also asked that I opine on what the effect would be on those districts of free and unrestricted school choice without the existing racial restriction. I have attached as Exhibit 1 to this letter a summary of my educational and employment history.

I have attached as Exhibit 2 to this letter is a racial/enrollment chart of our part of Union County. This chart shows El Dorado to be a fifty percent black district of some 4,581 students. It is joined by three districts — Smackover, Norphlet, and Parkers Chapel — that all have a smaller total enrollment with a smaller percentage black enrollment than El Dorado. The relative racial composition of these four school districts as depicted in Exhibit 2 has existed throughout my administration at El Dorado.

It is my opinion and observation that El Dorado School District offers educational, extracurricular, and college scholarship opportunities to its students that are substantially superior to those offered by its neighboring three school districts. I respectfully submit that this conclusion is

PULASKI COUNTY SPECIAL SCHOOL DISTRICT

925 East Dixon Road/P.O. Box 8601
Little Rock, Arkansas 72216-8601

July 24, 2015

Ms. Whitney Moore
Fuqua Campbell P.A.
Riviera Towers
3700 Cantrell Road, Suite 205
Little Rock, Arkansas 72202

Dear Ms. Moore:

At your request, I have read Bob Watson's report dated December 16, 2011, and my report of December 13, 2011, and addendum of January 23, 2012, copies of which are attached. I believe these documents remain a true and correct description of the situation that exists today in southern Arkansas. Any school district with a substantial black enrollment bordered by a school district or districts with an enrollment that is substantially white will suffer rapid re-segregation due to white flight if it participates in school choice. This is illustrated by what happened in the Malvern School District with a black enrollment of *circa* 35% in 2013-14 and 2014-15 when it participated in school choice. According to ADE statistics, the total transfers out of Malvern in 2013-14, substantially all to surrounding "white" districts, were 118, only one of whom was black. In 2014-15 the total number transferring out of Malvern was 109, only two of whom were black. To summarize this, under school choice there was a substantial movement of white students out of the Malvern district to predominantly white surrounding districts.

I understand this letter will be presented to the Arkansas State Board of Education to support denying school choice appeals by white parents seeking school choice transfers out of the Lafayette County School District into either Emerson-Taylor-Bradley school district or Spring Hill School District.

Sincerely,

Dr. Jerry Guess
Superintendent of Schools

PULASKI COUNTY SPECIAL SCHOOL DISTRICT
Office of the Superintendent

December 13, 2011

Mr. Allen P. Roberts
325 Jefferson
P.O. Box 280
Camden, AR 71711

Dear Mr. Roberts:

I'm Jerry Guess and am authoring this report in response to your request that I express my opinion on this question: What would be the impact on the racial composition of public school districts in Ouachita County, Arkansas, specifically, as well as south central Arkansas generally, of free and unrestricted school choice? A recent resume' of mine is attached as a *curriculum vitae.* This school year is my first as superintendent of Pulaski County Special School District. I spent the thirteen years immediately proceeding this year as superintendent of Camden Fairview School District. The basis of the opinion stated herein is my experience in public education, particularly as the superintendent of a south Arkansas school district.

It is my opinion that free and unrestricted school choice would result in rapid and complete segregation of public education in Ouachita County. That is because there are multiple districts in greater Ouachita County of varying racial composition. My experience has taught me that the racial composition of a school or school district is overwhelmingly the most important factor to most white parents in selecting a school for their children: The "whiter" the school or district the more effort and energy white parents will expend to get their children into the "whiter" district and out of the "blacker" districts. My experience has also taught me that racial composition is *not* usually a factor in school or district selection for most black parents. Explaining this phenomenon is beyond both my expertise and the scope of this report. What I do know is that these observations have been universally true for my entire experience in public education.

I've also learned from experience that there is another factor in the equation. Public school districts are "size- competitive." I honestly believe that 100% of school superintendents would choose to have their district growing and expanding rather than shrinking or even stagnant. Of course, there are multiple components of this phenomenon. Two of the most obvious are that public school financing is generally based on a *per capita* approach; and that enrollment growth is generally considered a sign of administrative success. Whatever the explanation, I believe the observation has a universality that makes it tantamount to a truth. When you add this phenomena to the racial preference observations expressed above, the conclusion of white flight is inevitable.

925 East Dixon Road ◇ Little Rock, Arkansas 72206
Phone: (501) 234.2001 ◇ Fax: (501) 490-0483 ◇ Email: jguess@pcssd.org

There are five school districts with substantial territory in Ouachita County: Camden Fairview, Bearden, Harmony Grove, Smackover, and Stephens. The present racial demographics of these districts are shown is Exhibit A.

It is my opinion that removing residence and race as restrictions on Ouachita County school attendance would result in Camden Fairview and Stephens becoming virtually all black due to their remaining students "choicing" out to Harmony Grove and Smackover. The immediate impact would be substantial. The only reason this would not happen immediately for Camden Fairview and Stephens is that it might take some time for Harmony Grove and Smackover to expand their personnel and facilities to accommodate all the white children desiring to attend.

I believe the same result would occur between Bearden and Harmony Grove with the only difference being that it would take longer, *e.g.,* four or five years as opposed to one or two years. This is because the black enrollment of Bearden is *only* 41%. However, as stated above, my experience has been that there is no specific black percentage enrollment that leads to "white flight." Rather it is that there is a "whiter" district nearby. To me this point is illustrated by the present litigation involving as it does white student residents of Malvern School District seeking to leave Malvern for a nearby district. The last time I checked Malvern had a black enrollment of about 31%. My point is this: Malvern would be a "white flight" district if it were situated next door to Camden Fairview with 61% black enrollment or El Dorado with a 50% black enrollment. It is not the number of blacks attending Malvern; it is solely the availability of a nearby "whiter" alternative.

Finally, I believe that Ouachita County is in no way unique among surrounding south central Arkansas counties. The counties and school districts with which I am most familiar are virtually identical to Ouachita County in the factors discussed. They are Union, Columbia, and Hempstead. Each county now has a total population with blacks and whites about evenly divided. Each county has one centrally located "county seat" school district (*i.e.,* Camden Fairview, El Dorado, Magnolia, and Hope school districts). See Exhibit B. Each of these "county seat" districts historically operated a racially dual system which was desegregated in the early 1970s by closing the black system and merging its enrollment with the white students. Finally, each of the four counties has one or more smaller and whiter districts located near the blacker county seat district.

In my opinion, free and unrestricted school choice would rapidly result in each of these counties having a racially segregated public education system. Furthermore, I believe this combination of demographics and school district organization predominates across the span of south Arkansas. It is my opinion that wherever that combination occurs free and unrestricted school choice would result in racially segregated public education.

Regards,

Jerry D. Guess
Superintendent of Schools

JERRY D. GUESS

178 Gray Fawn Trail
Camden, Arkansas 71701
870-837-2575 – home
870-818-7442 – cell

Education

Ed. D.,	1997, University of Arkansas at Little Rock, Little Rock, AR Dissertation: *Desegregation Through Consolidation: A Historical Case Study of the Formation of the Camden Fairview School District*
M.Ed.,	1989, University of Arkansas, Fayetteville, AR Educational Administration
B.A.,	1973, Southern State College, Magnolia, AR English major, history minor
Diploma	1969, Chidester High School, Chidester, AR

Professional Experience

Superintendent, Pulaski County Special School District (PCSSD) (2011-Present)

Superintendent, Camden Fairview School District (CFSD) (1996-2011)

Associate Superintendent, CFSD, (1994-1996)

- Curriculum and Instruction Director K-12
- Coordinator of staff development, technology program, early childhood programs, and special programs
- Acting Personnel director (1994)

Assistant Superintendent, CFSD (1992-1994)

- Developed desegregation program and budget
- Assisted superintendent and board of education in annexation of Camden School District to Fairview School District
- Special Education and Gifted /Talented Program Oversight
- Compensatory Education Coordinator
- Grant writer, K-12

Principal, Fairview Middle School, Fairview School District (FSD) (1990-1992)

- Supervised and evaluated all staff members regarding continued employment and performance improvement
- Responsible for coordination and refinement of mathematics and language curriculum

- Developed and implemented comprehensive rewards and incentives

Assistant Principal, Fairview Middle School, FSD (1986-1990)

- Responsible for discipline, attendance, home-school relations
- Coordinated textbook selections and purchases for all curricular areas
- Chaired in-service, teacher center and six-year plan committees
- Assisted superintendent and board of education in consolidation of Chidester School District and Fairview School District

Gifted and Talented Coordinator, FSD (1985-1990)

- Conducted district-wide needs assessment
- Designed and implemented gifted and talented identification and service models for K-12
- Initiated and implemented ADE-sponsored Academic Enrichment for Gifted in Summer (AEGIS) program, Engineering, Management Exploration, serving 30 residential students for two weeks

Classroom Teacher, Fairview High School, FSD (1978-1986)

- Taught language arts, 10,11, and 12, yearbook and newspaper
- Public relations coordinator for the school district
- Organized, developed, and taught honors creative writing class
- FHS Teacher of the Year, 1984

Professional Organizations and Accomplishments

- Member and President (2010-11), Arkansas Association of School Administrators
- Member and Vice-President (2011-12), Arkansas Association of Supervision and Curriculum Development
- Member, Arkansas Professional Licensure Standards Board
- Arkansas Superintendent of the Year, 2008
- Member and President, Board of Trustees, Southern Arkansas University
- Chair, Southern Arkansas University Presidential Search Committee
- Member, National Association of Supervision and Curriculum Development
- Member, National Organization for Legal Problems in Education
- Member, Board of Directors, and presenter, Arkansans for Gifted and Talented Education
- Member, Board of Directors, and presenter, Arkansas Association of Middle Level Educators
- Member and Board of Directors, Environmental and Spatial Technologies Initiative

- Member and Board of Directors, Arkansas Association of School Administrators
- Member, Phi Kappa Phi.

Selected Community Activities and Honors

- Member and Board of Directors, Camden Area Chamber of Commerce
- Member and Board of Directors, Ouachita County Farm Bureau
- Member and past president, Camden Kiwanis Club
- Member and Board of Directors, Ouachita Partnership for Economic Development, Inc.
- Meritorious Service Award 2002, SAU-Tech
- Community Service Award 2001, Camden Area Chamber of Commerce
- Member and Board of Directors, People Are Concerned

References

Available upon request

EXHIBIT A

SCHOOL DISTRICT	2011-12 ENROLLMENT	BLACK (%)	NON-BLACK (%)
Camden Fairview	2,425	1,481 (61%)	944 (39%)
Harmony Grove	1,036	230 (22%)	806 (78%)
Smackover	822	187 (28%)	635 (77%)
Bearden	572	234 (41%)	338 (59%)
Stephens	326	279 (86%)	47 (14%)

"Statewide Information System Reports: Enrollment." *ADE Data Center*. 8 December 2011. Arkansas Department of Education. 12 December 2011. <http://adedata.arkansas.gov/statewide/Districts/Enrollment.aspx>

EXHIBIT B

AREA	POPULATION/ ENROLLMENT	BLACK (%)	NON-BLACK (%)
Union County	41,639*	13,721 (33%)	27,918(67%)
El Dorado S.D.	4,581**	2,309 (50%)	2,272 (50%)
Columbia County	24,552*	9,059 (37%)	15,493 (63%)
Magnolia S.D.	2,728**	1,460 (54%)	1,268 (46%)
Hempstead County	22,609*	6,646 (29%)	15,963 (71%)
Hope S.D.	2,460**	1,153 (47%)	1,307 (53%)

* "2010 Census Interactive Population Search." *United States Census 2010.* 26 May 2011. U.S. Census Bureau. 12 December 2011. <http://2010.census.gov/2010census/popmap/ipmtext.php?fl=05>

** "Statewide Information System Reports: Enrollment." *ADE Data Center*. 8 December 2011. Arkansas Department of Education. 12 December 2011. <http://adedata.arkansas.gov/statewide/Districts/Enrollment.aspx>

JERRY D. GUESS

178 Gray Fawn Trail
Camden, Arkansas 71701
870-837-2575 - home
870-818-7442 – cell

January 23, 2012

Mr. Allen P. Roberts
325 Jefferson Street
P.O. Box 280
Camden, AR 71711

Dear Mr. Roberts;

You asked me to prepare an addendum to my previous report dated December 13, 2011, if I could accurately discuss the history of desegregation in Arkansas from 1954 to 1970. I believe I can, and that discussion, including the basis for my statements, follows.

I wrote my doctoral dissertation on desegregation in Ouachita County, Arkansas public schools. In preparing and writing that dissertation I studied and became familiar with the history of desegregation of public education in Arkansas generally, and south Arkansas in particular. I also "lived" most of the experience graduating from Chidester High School (Ouachita County) in 1969. I was born in 1950, and raised and educated in the public schools of Ouachita County. I am a public school teacher and administrator by profession and experience. Most of my professional employment has been in Ouachita County public schools beginning in 1978. My *curriculum vitae* is attached to my earlier report submitted herein.

In addition to my doctoral studies, I also accumulated knowledge used to state the facts, opinions, and conclusions contained herein by preparing and testifying on desegregation before various *ad hoc* and standing groups of Arkansas legislators and other groups over the past ten years. That work was virtually always done jointly in concert with my colleague, the superintendent of El Dorado School District, Robert Watson. This collaboration armed me with an even better knowledge of the desegregation history of El Dorado School District than I had acquired in my studies and personal experience. All of this together enables me to state that the desegregation history of Chidester, Camden, Fairview, and El Dorado school districts, *circa* 1954-1971, is virtually identical.

At the time of *Brown v. Board of Education,* all four of the districts mentioned operated two school systems, one for blacks and one for whites. It would be more accurate, because of the multiple classifications of race and ethnicity used today, to say that these districts operated two separate education systems, one for non-blacks and the other for blacks. I say this because all ethnic identifications except black, *e.g.,* white, oriental, Hispanic, American Indian, *etc.,* went to the "white" schools, while all children with any black ancestry were relegated to the black schools.

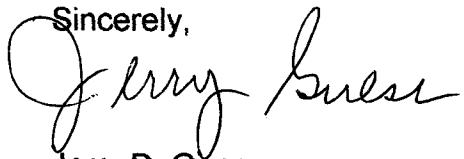
Desegregation under *Brown* began in the last half of the 1950s motivated by both court litigation and administrative intervention through the federal Health, Education, and Welfare Department (HEW). Fairview, Chidester, Camden, and El Dorado all operated in these early years under court or agency approved "freedom-of-choice" desegregation plans. Under these arrangements both the white (non-black) schools and the black schools remained open, but with the districts ordered to permit students to attend either, regardless of race. No meaningful desegregation occurred under freedom-of-choice. I believe without exception *all* non-black (white) students continued to attend the white schools, while substantially all black children continued to attend the "black" schools. This remained the case until 1969 when HEW decided it would no longer approve federal funding for school districts with freedom-of-choice desegregation plans. This left the four school districts under discussion with virtually no choice for 1969-70 and beyond. Each immediately closed its "black schools" and merged its black and non-black student bodies in the former "white schools."[1]

Camden High School in the Camden School District was typical of the four districts under freedom-of-choice. My research indicates that 1965 was the first year of any desegregation, which was by freedom-of-choice. In 1965 only five black children attended the "white" schools, all at Camden High School with a total enrollment of *circa* 700. Though some new children came and some graduated, the total black enrollment at CHS remained at four to six students until *circa* 1969. The eighth grade class in the black school had no whites, and the eighth grade class in the white school had no blacks. Camden School District merged these two eighth classes into the entering ninth grade class at existing Camden High School in 1969. After the 1969 HEW order a new high school facility was completed and all high school grades, as well as all the elementary grades, were merged in 1970.

Camden, Chidester, Fairview, and El Dorado school districts shared the above-described 1954-71 desegregation history. It is my opinion that this history was identical to that of virtually all other similarly situated south and central Arkansas school districts.

Please let me know if there are questions.

Sincerely,



Jerry D. Guess

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[1] Camden actually sought and received a partial time-waiver from HEW of the order to "immediately" merge the student bodies because a new high school facility large enough to accommodate both white and black enrollments was already under construction. Therefore, the total black/white merger occurred in Camden in 1970, rather than 1969 as it did for Chidester, El Dorado, and Fairview.

supported by every objective standard by which one could test such a conclusion. I am also attaching as Exhibit 3 to this letter an itemization of El Dorado's academic, extracurricular, and scholarship offerings that support the conclusion of excellence that I have just advanced.

Even a cursory examination of this exhibit also clearly establishes that I would be incorrect if I advanced this bold assertion as the product of my administrative abilities. It is not, and I am just the person lucky enough to have been on board when the corporate citizens and patrons of this district, together with the people employed by the district, past, present, and future, pushed this district to the position of excellence it now enjoys.

I am have been superintendent of schools for the El Dorado School District since 1985. Before that I was the principal of El Dorado High School and also taught and held other administrative positions in the district. During that period of time, I have dealt personally with requests from parents residing in El Dorado to permit their children to attend school in another district. These requests include requests for transfers under the Arkansas School Choice Act of 1989, as well as arguments to me as to why El Dorado should permit a white student to move to another district even though that movement would not be permissible under our existing school choice statute. El Dorado is now, and throughout this period of time has been, under a desegregation court order. In that regard, I have been since 1985 the primary spokesman for the district in all its dealings with the Court and with the plaintiff-class of black students and parents, as well as with their attorney, John W. Walker.

Based on my experience referred to above, I have formed opinions and made observations regarding what you asked about. My first observation is that race trumps all other considerations, including quality of education, in Union County among most white parents selecting a school district for their child to attend. As a general rule, white parents will go to great lengths and expend great amounts of energy to send their child to the school with the smallest percentage black enrollment.

This is true now and has been true throughout my twenty-seven years as superintendent. If the School Choice Act of 1989 had not included its racial restriction, it is my opinion that El Dorado would have very quickly lost its white students and become an overwhelmingly black school district. Furthermore, it is my opinion that El Dorado could not hold its white students today were it not for the residence and racial restrictions in Arkansas' attendance laws. But for those restrictions, I believe white students in El Dorado would very quickly move to Parkers Chapel, Smackover, and Norphlet.

Finally, it is my opinion that the same situation I have described exists today in every area of Arkansas that has (1) a substantial black population; (2) and multiple school districts; (3) that are in close proximity to one another; (4) and that are racially identifiable. In other words, this is the same situation that exists all over South Arkansas. It is my belief that removal of the residence and racial restrictions from Arkansas' school attendance laws would rapidly result in segregated public education in South Arkansas very similar, if not identical, to what existed through the 1960s.

Sincerely,

/s/ *Robert A. Watson*

Robert A. Watson

ROBERT A. WATSON
104 Timber Hills Drive
El Dorado, Arkansas 71730
(870) 862-4604
Email: Lvoris@esd-15.org

Education:

Administrator Certification, University of Arkansas, Fayetteville, Arkansas (1982)
M.A., Louisiana Tech University, Ruston, Louisiana (1969, Speech)
B.A., Louisiana Tech University, Ruston, Louisiana (1968, Speech Education)
Diploma, Logan High School, Logan, West Virginia (1963)

Professional Experience:

Superintendent of Schools, El Dorado School District (1985-Present)

Principal, El Dorado High School, El Dorado School District (1980-1985)

Principal, Barton Junior High School, El Dorado School District (1975-1980)

Assistant Principal, El Dorado High School, El Dorado School District (1974-1975)

Dean of Students, Man High School, Logan County School District, Logan, West Virginia (1973-1974)

Classroom teacher and coach, Man High School, Logan, West Virginia (1971-1973)

Classroom teacher, Man High School, Logan, West Virginia (1969-1973)

Professional Organizations and Accomplishments

Member and President (1999-2001) Arkansas Association of School Administrators

Arkansas Superintendent of the Year, 2001

Member and President (1998-2001) of Economics Arkansas, current board member

Member of the State and Public School Life and Health Insurance Board (2007-2011)

Community Activities and Honors

Member and Board of Directors (2007-2009), El Dorado Chamber of Commerce

Member and Past President (1986-1987), Rotary Club

Paul Harris Fellow – The Rotary Foundation of Rotary International

References

Available upon request.

EXHIBIT 2

School District	2011-2012 Enrollment	Black	Non-black
El Dorado	4,581	2,309 (50.4%)	2,272 (49.6%)
Smackover	822	187 (22.7%)	635 (77.3%)
Parkers Chapel	650	67 (10.3%)	583 (89.7%)
Norphlet	414	93 (22.5%)	321 (77.5%)

"Statewide Information System Reports: Enrollment." *ADE Data Center.* 8 December 2011. Arkansas Department of Education. 12 December 2011. <http://adedata.arkansas.gov/statewide/Districts/Enrollment.aspx>

El Dorado School District

200 West Oak Street
El Dorado, Arkansas 71730
870.864.5001
www.eldoradopublicschools.com
www.eldoradopromise.com

Mission

All students in El Dorado School District will become proficient or advanced in all disciplines in a safe learning environment.

Schools

ESD has 8 campuses with 5 elementary focus schools, 1 middle school, 1 junior high, and 1 high school.

- Hugh Goodwin Academy for the Arts (K-4)
- Northwest Environmental Studies Academy (K-4)
- Retta Brown Communication & Technology (K-4)
- Union Academy of Health & Wellness (K-6)
- Yocum Academy for Math & Science (K-4)
- Washington Middle School for Arts & Sciences (5-6)
- Barton Junior High School (7-8)
- El Dorado High School (9-12)

Highlights & Recognitions

- Free college tuition for El Dorado High graduates
- Endowed Chairs in Math, Science, Foreign Language, and Literacy for K-12 curriculum alignment
- El Dorado High chosen in first 10 high schools to receive Arkansas Advanced Initiative for Math & Science (AAIMS) Advanced Placement grant sponsored by Exxon-Mobil
- El Dorado High "Academic Signing Day" featured in *People Magazine*
- College Board Honor Roll of Outstanding AP Programs 2010-2011
- El Dorado High state finalist for Teacher of the year featured in *Southern Living Magazine*
- Barton Junior High "Top Ten Junior High Schools Consistently High-Performing" by National Center for Educational Accountability
- El Dorado High Southern Regional Education Board (SREB) featured school in *Rigor, Relevance & Relationships Improve Achievement*
- Barton Junior High recognized as "Best Practices" high-performing middle school
- Barton Junior High recognized as Top Performing School in Literacy & Math by National Center for Educational Achievement *2009-2010 & 2010-2011*
- Jacob Javits Foundation used district as a model for statewide Gifted evaluation program
- District & staff recognized with Challenger Award by Arkansans for Gifted & Talented Education
- Magna Award from American School Boards Association 2009 & 2011
- ERI Golden Apple Award for outstanding Direct Instruction in all elementary schools
- 2010 Consolidated School *Health Healthy School Board Gold Award*
- 2010 Pride Team of the Year

Community Support

- El Dorado Promise from Murphy Oil for 5-years of college tuition for all El Dorado high graduates
- El Dorado Education Foundation
  - Sponsor Endowed Chairs Program
  - Teacher Grants for unique projects
  - Teacher Excellence Awards
- Murphy Education Program
  - Cash Awards for student scores on Advanced Placement, ACT, SAT, & Benchmark Exams
  - Cash Awards for Advanced Placement teachers
  - Academic Letter Jackets
- Murphy Foundation has given 700 scholarships
- Union County Community Foundation annually gives over 20 scholarships to El Dorado High students
- First Financial Bank – student & teacher support
- Simmons First Bank – student & teacher support
- Share Foundation
  - Sponsor Pride Youth Program
  - Coordinated School Health

Student Opportunities & Achievements

- 4,650 students district-wide
- Student interest focus in all elementary schools
- 19 Advanced Placement courses
  - $9,300 cash awards from AAIMS for student AP scores
  - Recognized by College Board as one of two high schools in Ark. For increased AP scores
    - 19 AP Scholars
    - 3 AP Scholars with Distinction
    - 4 AP Scholars with Honors
    - 2 National AP Scholars
- 7 Concurrent Credit courses
- Pre-AP courses in all core areas beginning 5th grade
- Gifted Program in all schools
  - Odyssey of the Mind, Quiz Bowl, unique field trips, Duke Talent Search
- Over $1.18 million dollars in academic scholarships for 2009
- Murphy Education student awards for various test scores
- ACT Support Center – free ACT preparation for all 9-12 students
- Athletic Program
  - 7-12 baseball, basketball, cross country, football, golf, soccer, swimming, tennis, track, volleyball

- AAAAAA South Athletic Conference
- Excellent athletic facilities
- State Champs 2009-10 Football & Girls Golf
- State Champs 2010-2011 Football, Girls Basketball, Golf

- Outstanding Fine Arts Programs
- Regional & State Science & Math awards
- Special Instructional Programs
  - Bridge to College Algebra, Waiting to Excel,
  - Accelerated Academies
- CHAMPS, PRIDE, FBLA, FCCLA, Young Republicans, Young Democrats, Student Counsel, and many other clubs

Staff Highlights & Recognitions

- Over 400 certified staff
- 200 staff have advanced degrees
- 5 National Board certified teachers
- 70 Advanced Placement/Pre-AP certified staff
- 50 Laying the Foundation certified staff
- 11 GT certified staff
- Toyota Tapestry Excellence in Science Teaching Award
- National Association of Biology Teachers "Outstanding Biology Teacher of the Year"
- 1st Butler Center for Arkansas Studies Fellow
- Bessie B. Moore Excellence in Teaching Economics Award
- Robert Rauschenberg Foundation Power of Art Award
- Blue Bell Ice Cream Arkansas Regional Teacher of the Year
- 2009 Arkansas Teacher of the Year finalist
- Top Ten Finalist in Shell National Science Teacher Award
- Staff chosen for Eisenhower People to People Literacy Team for South Africa educational tour
- Arkansas Newspaper in Education Teacher of the Year
- Wal-Mart Teacher of the Year (multiple times)
- Arkansas Superintendent of the Year
- ERI Principal of the Year
- AAEA/AACIA Administrator of the Year 2010

Fine Arts Program

- A+ School Network designation
- Music & visual arts instruction in all elementary schools
- Band grades 5-12 and Concert, Jazz, & Marching Band 9-12
- Orchestra grades 5-12
- Vocal music – various choirs, ensembles & madrigal groups 5-12
- Visual Arts
  - Watercolor, oils, ceramics
  - Advanced Placement Drawing, 2-D & 3-D Art
  - Artists in Education through South Arkansas Arts Center
  - Master in Fine Arts instructor
- Performing Arts
  - Drama grades 5 – 12, Dance, Specialized music classes
- Thespian Troupe regularly performs at American Theater Festival in Edinburgh Fringe Festival, Edinburgh, Scotland
- Thea Foundation Scholarship students
- South Arkansas Symphony partnership
- AP Music Theory

Technology

- 2 to 1 student to computer ratio
- All schools networked
- E-Labs, X-Labs, E.A.S.T. Lab
- Smartboards, TI Navigator, Interwrite, Quizdom, graphing calculators, Mac Labs, iPods, cameras, Compass Odyssey, A+

Partnerships

- El Dorado Education Foundation
- A+ Schools Network
- Arkansas Council on Economics Education
- Economics Arkansas
- Boys & Girls Club
- South Arkansas Arts Center
- South Arkansas Community College
- El Dorado Chamber of Commerce
- El Dorado Education Foundation
- Healthworks Fitness Center
- South Arkansas Symphony Orchestra
- Arkansas Museum of Natural Resources
- Murphy Oil Corporation
- Murphy Foundation
- Murphy Education Program
- Cyber Innovation Center
- Share Foundation
- Simmons First Bank
- First Financial Bank

Accreditation

ESD is fully accredited by the Arkansas Department of Education. El Dorado High is also accredited by North Central Association.

CLOSED

U. S. District Court
Western District of Arkansas (Texarkana)
CIVIL DOCKET FOR CASE #: 4:92-cv-04040-JLH

Turner, et al v. Lewisville School, et al
Assigned to: Honorable Jimm Larry Hendren
Demand: $0
Cause: 42:1981 Civil Rights

~~Date Filed: 04/16/1992~~
Date Terminated: 03/05/1993
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Mary Turner
Individually and as next friend of Torrance Turner, a minor

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Plaintiff

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John W. Walker
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Plaintiff

Mary Rose

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Individually and as next friend of Victor Rose

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Plaintiff

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John W. Walker
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Plaintiff

Barbara Dudley

represented by **Austin Porter , Jr.**
(See above for address)

FAX COVER SHEET

870-921-4808

TO: JENNIFER DAVIS, LEGAL COUNSEL FOR THE ARKANSAS DEPARTMENT OF EDUCATION

FROM: THE LAFAYETTE COUNTY PARENTS APPEALING THE DECISION BY THE LAFAYETTE COUNTY SCHOOL DISTRICT OPTING OUT OF SCHOOL CHOICE ACT 560 FOR 2015

PAGES INCLUDING COVER SHEET: 15

U. S. District Court
Western District of Arkansas (Texarkana)
CIVIL DOCKET FOR CASE #: 4:92-cv-04040-JLH

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Assigned to: Honorable Jimm Larry Hendren
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Cause: 42:1981 Civil Rights

~~Date Filed: 04/16/1992~~
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Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
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Plaintiff

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Plaintiff

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Plaintiff

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Plaintiff

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Plaintiff

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Plaintiff

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John W. Walker
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Plaintiff

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John W. Walker
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Plaintiff

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V.

Defendant

Lewisville School District No. 1
A Public Body Corporate

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Defendant

Hollis Sasser
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Defendant

Harry Smith
In his official capacity as member of the Board of Education of the Lewisville School District No. 1, a Body Corporate

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Defendant

Leslie Nutt
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Defendant

Steve Groves
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Defendant

Carolyn Moss
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represented by **Dan F. Bufford , Sr.**
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LEAD ATTORNEY
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Defendant

Johnny Ross
Individually and as member of the

represented by **Dan F. Bufford , Sr.**
(See above for address)

Board of Education of the Lewisville School District No l, A Body Corporate

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/16/1992	1	COMPLAINT (8 Summons(es) issued) (jss) (Entered: 04/17/1992)
04/16/1992		FILING FEE PAID: on 4/16/92 in the amount of $ 120.00, receipt # 026532. (jss) (Entered: 04/17/1992)
05/11/1992	2	ANSWER by defendant [1-1] (jss) (Entered: 05/11/1992)
06/11/1992	3	MEMO of reassignment to Honorable Jimm L. Hendren (cc: all counsel) (mf) (Entered: 06/11/1992)
10/26/1992	4	MOTION by defendant Lewisville Sch Dist to compel answers to interrogatories (jss) (Entered: 10/26/1992)
10/26/1992	5	MEMORANDUM BRIEF by defendant Lewisville Sch Dist in support of motion to compel answers to interrogatories [4-1] (jss) (Entered: 10/26/1992)
10/27/1992	6	TRIAL NOTICE ; trial set for 8:30 3/1/93 (gg) (Entered: 10/27/1992)
10/29/1992	7	ORDER by Magistrate Beverly R. Stites granting motion to compel answers to interrogatories [4-1]; dir pltfs to respond w/i 10 days (cc: JLH, BRS, all counsel) (kl) (Entered: 10/29/1992)
10/30/1992	8	ORDER by Honorable Jimm L. Hendren referring to Magistrate Beverly R. Stites the motion to compel answers to interrogatories [4-1] (cc: all counsel) (jss) (Entered: 10/30/1992)
03/05/1993	9	CONSENT DECREE by Honorable Jimm L. Hendren (cc: all counsel) (gg) (Entered: 03/05/1993)
03/05/1993	10	ORDER by Honorable Jimm L. Hendren dismissing case w/prej subject to terms of consent decree (cc: all counsel) (gg) (Entered: 03/05/1993)
03/31/1993	11	ORDER by Honorable Jimm L. Hendren directing pltf to submit a fee petition within 14 days of 4/15/93 if parties cannot resolve the issue of atty fees (cc: all counsel) (tlc) (Entered: 03/31/1993)
05/03/1993	12	ORDER by Honorable Jimm L. Hendren granting joint motion of parties to extend time to submit pltfs motion for atty fees up to & including 5/13/93 (cc: all counsel) (tlc) (Entered: 05/03/1993)
05/13/1993	13	MOTION w/brief, by plaintiff for attorney fees and costs (jss) Modified on 05/13/1993 (Entered: 05/13/1993)
05/26/1993	14	MOTION by defendants to extend time to resp to motion f/atty fees (rw) (Entered: 05/26/1993)
05/27/1993	15	ORDER by Honorable Jimm L. Hendren granting motion to extend time to resp to motion f/atty fees on or before 6/24/93 [14-1] (cc: all counsel) (gg) (Entered:

		05/27/1993)
06/24/1993	16	RESPONSE by defendants to motion for attorney fees and costs [13-1] (jss) (Entered: 06/24/1993)
06/24/1993	17	MEMORANDUM BRIEF by defendants in support of motion response [16-1] (jss) (Entered: 06/24/1993)
07/06/1993	18	MOTION by plaintiff to extend time to reply to response to motion for attys fees (jss) (Entered: 07/06/1993)
07/12/1993	19	ORDER by Honorable Jimm L. Hendren granting motion to extend time to reply to response to motion for attys fees [18-1] until 7/15/93 (cc: all counsel) (tlc) (Entered: 07/12/1993)
07/15/1993	20	REPLY by plaintiffs to response to plaintiff's motion for attys fees (jss) (Entered: 07/16/1993)
07/15/1993	21	MEMORANDUM BRIEF by plaintiffin support of reply [20-1] (jss) (Entered: 07/16/1993)
02/07/1994	22	ORDER by Honorable Jimm Hendren finding the motion for atty fees and costs [13-1] moot as parties have settled the issue (cc: all counsel) (tlc) (Entered: 02/07/1994)
07/01/1998		File transmitted to Federal Records Center: accession code = 021-98-0236 location code = D1406965 agency box # 2-11 (mwf) (Entered: 07/01/1998)

Question 2: Must a school district provide proof of a conflict on an annual basis?

"No," in my opinion. The Public School Choice Act, as amended by Act 560, contains no language requiring annual declarations or renewals. As stated above, Act 560 repealed the law granting school districts the option to declare an exemption from school choice each year.[17]

Moreover, as a practical matter, there would be no need for a school district to resubmit its proof of a conflict. A court's desegregation order to a school district remains in place, as written, until it is lifted, modified or, by its own terms, comes to an end. A lower court's order also could be overturned or vacated by a higher court. Absent such a change, however, the school district's conflict remains.

Question 3: If a school district declares a conflict with the interdistrict school choice provisions of the Act, what obligations, if any, does the ADE have to review a school district's declared conflict to determine whether the school district met the requirements of the Act? Specifically, does the ADE have any obligation or authority to review the information provided by the school district and determine (a) whether a school district has provided sufficient proof of a conflict with a desegregation order or court-approved desegregation plan; (b) whether the desegregation order or court-approved desegregation plan remain active; (c) whether a genuine conflict exists between the school district's desegregation order or court-approved desegregation plan and the interdistrict school choice provisions of the Act; and (d) whether it can require a school district to provide additional information or deny a determination of a limitation of the Act until the information is provided?

This question seems to boil down to whether the ADE can or must make a determination as to the veracity of a school district's claim of a conflict and/or the adequacy of the "proof" it has submitted. The question also asks whether the ADE can require a school district to provide additional information (presumably if the proof is in some way deemed "insufficient") or deny a school district's excusal from the Act until the information is provided.

In my opinion, the ADE is neither authorized nor obligated to take the actions contemplated. As mentioned above, the law is silent on what, if anything, the

[17] *See* text accompanying notes 7-9 *supra*.

Equipping Education Leaders, Advancing Ideas

Education Commission of the States

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Arkansas S.B. 896

This bill completely revamps the way that school districts are consolidated in the state. The relevant sections of the legislation are below:

THERE SHALL NOT BE ANY CONSOLIDATION OR ANNEXATION OF ANY PUBLIC SCHOOL DISTRICT WITH ANY OTHER SCHOOL DISTRICT IN THE STATE WITHOUT THE PRIOR CONSENT AND APPROVAL OF THE STATE BOARD OF EDUCATION

A> (A) THE STATE BOARD OF EDUCATION SHALL CONSIDER THE CONSOLIDATION OF AFFECTED SCHOOL DISTRICTS INTO THE EXISTENCE OF A NEW RESULTING SCHOOL DISTRICT OR DISTRICTS UNDER THE FOLLOWING CONDITIONS: <A]

[A> (A) THE AFFECTED DISTRICTS FILE A PETITION WITH THE STATE BOARD OF EDUCATION REQUESTING THE AFFECTED DISTRICTS BE CONSOLIDATED INTO A RESULTING DISTRICT OR DISTRICTS. <A]

[A> A COPY OF THE PETITION HAS BEEN FILED WITH THE COUNTY CLERK'S OFFICE OF EACH COUNTY WHERE THE AFFECTED DISTRICTS ARE LOCATED. THE COUNTY CLERK'S OFFICE CERTIFIES IN WRITING TO THE STATE BOARD OF EDUCATION THAT THE PETITION HAS BEEN SIGNED BY A MAJORITY OF THE QUALIFIED ELECTORS OF THE AFFECTED DISTRICTS; <A]

[A> (B) A MAJORITY OF THE QUALIFIED ELECTORS IN THE AFFECTED DISTRICTS VOTE TO APPROVE CONSOLIDATION OF THE AFFECTED DISTRICTS INTO A RESULTING DISTRICT OR DISTRICTS PURSUANT TO A VALID ELECTION AS PROVIDED FOR IN SECTION 6-14-122; <A]

[A> (C) THE LOCAL BOARD OF DIRECTORS VOTE TO APPROVE BY RESOLUTION OF A MAJORITY OF THE MEMBERS OF EACH LOCAL BOARD OF EDUCATION THE CONSOLIDATION OF THE AFFECTED DISTRICTS INTO A RESULTING DISTRICT OR DISTRICTS. <A]

[A> (B) THE STATE BOARD OF EDUCATION MAY VOTE TO APPROVE, BY A MAJORITY OF A QUORUM PRESENT OF THE MEMBERS OF THE STATE BOARD, THE CONSOLIDATION OF THE AFFECTED DISTRICTS INTO A RESULTING DISTRICT UPON RECEIPT OF A VALID PETITION FOR CONSOLIDATION AND AFTER RECEIVING PROOF FROM THE PETITIONING PARTY OF AT LEAST ONE (1) OF THE REQUIRED CONDITIONS SET FORTH IN SUBSECTION (A)(1)(A), (B) OR (C) OF THIS SECTION, AND UPON RECEIPT OF PROOF OF THE ISSUANCE OF PUBLIC NOTICE OF THE INTENT TO CONSOLIDATE AFFECTED DISTRICTS INTO A RESULTING DISTRICT OR DISTRICTS IN THE LOCAL NEWSPAPERS OF GENERAL CIRCULATION IN THE AFFECTED DISTRICTS FOR A TIME PERIOD OF NO LESS THAN ONCE A WEEK FOR TWO (2) CONSECUTIVE WEEKS IMMEDIATELY PRIOR TO THE TIME THE PETITION IS FILED WITH THE STATE BOARD. <A]

[A> (C) IN ORDER FOR THE PETITION FOR CONSOLIDATION TO BE VALID, IT SHALL BE FILED WITH THE STATE BOARD OF EDUCATION AT LEAST THIRTY (30) DAYS PRIOR TO THE NEXT REGULARLY SCHEDULED STATE BOARD OF EDUCATION MEETING, AT WHICH TIME THE PETITION WILL BE PRESENTED FOR HEARING BEFORE THE STATE BOARD. <A]

[A> (D) UPON APPROVAL OF A PETITION REQUESTING CONSOLIDATION, THE STATE BOARD SHALL ISSUE AN ORDER DISSOLVING THE AFFECTED SCHOOL DISTRICTS AND ESTABLISHING THE RESULTING SCHOOL DISTRICT OR DISTRICTS. THE STATE BOARD OF EDUCATION SHALL ISSUE AN ORDER ESTABLISHING THE BOUNDARY LINES OF THE RESULTING DISTRICT OR DISTRICTS. IT SHALL BE THE DUTY OF THE DEPARTMENT OF EDUCATION TO MAKE CHANGES IN THE MAPS OF THE SCHOOL DISTRICTS TO PROPERLY SHOW THE BOUNDARY LINES OF THE RESULTING DISTRICT OR DISTRICTS. <A]

[A> (E) THE STATE BOARD OF EDUCATION SHALL ISSUE AN ORDER ESTABLISHING THE CHANGED BOUNDARIES AND SHALL FILE THE ORDER WITH THE COUNTY CLERK OR CLERKS WHERE THE RESULTING DISTRICT OR DISTRICTS ARE LOCATED. THE COUNTY CLERK SHALL MAKE A PERMANENT RECORD OF THE ORDER AND, THEREAFTER, THE BOUNDARIES SO ESTABLISHED SHALL BE BOUNDARIES OF THE RESULTING DISTRICT UNTIL CHANGES ARE MADE ACCORDING TO THE PROVISIONS OF LAW. <A]

[A> (F) THE STATE BOARD OF EDUCATION SHALL NOT CONSOLIDATE AFFECTED DISTRICTS WHICH ARE NOT GEOGRAPHICALLY CONTIGUOUS UNLESS THE FOLLOWING LIMITED CONDITIONS ARE DETERMINED TO BE VALID REASONS FOR CONSOLIDATION: <A]

[A> (1) THE CONSOLIDATION WILL RESULT IN THE OVERALL IMPROVEMENT IN THE EDUCATIONAL BENEFIT TO STUDENTS IN ALL THE SCHOOL DISTRICTS INVOLVED; OR <A]

[A> (2) THE CONSOLIDATION WILL PROVIDE A SIGNIFICANT ADVANTAGE IN TRANSPORTATION COSTS OR SERVICE TO ALL THE SCHOOL DISTRICTS INVOLVED. <A]

[A> 6-13-1405. EFFECTIVE DATE OF ANNEXATION OR CONSOLIDATION. <A]

[A> (A) UNLESS AN AGREEMENT IS REACHED IN THE CONSOLIDATION OR ANNEXATION AGREEMENT TO BE DIFFERENT, THE EFFECTIVE DATE OF THE ANNEXATION OR CONSOLIDATION SHALL BE THE JULY 1 FOLLOWING THE ORDER OF THE STATE BOARD OF EDUCATION DIRECTING THE ANNEXATION OR THE CONSOLIDATION. <A]

[A> (B) THE BOARD OF DIRECTORS OF THE AFFECTED DISTRICTS BY MAJORITY APPROVAL OF THE MEMBERS OF THE LOCAL BOARDS MAY ENTER INTO A WRITTEN AGREEMENT, EXECUTED BY THE FORMER PRESIDENT AND SECRETARY OF EACH DISTRICT. THE AGREEMENT SHALL PRESCRIBE THE DATE OF THE ANNEXATION OF THE AFFECTED DISTRICT OR DISTRICTS TO THE RECEIVING DISTRICT OR THE FORMATION OF THE RESULTING DISTRICT FROM CONSOLIDATION OF AFFECTED DISTRICTS. <A]

[A> (C) THE AGREEMENT SHALL ALSO CONTAIN THE NUMBER OF MEMBERS OF THE BOARD OF DIRECTORS OF THE RESULTING DISTRICT AND PRESCRIBE THE NUMBER OF DIRECTORS OF THE RESULTING DISTRICT AS PROVIDED FOR IN SECTION 6-13-1206. <A]

[A> (D) AN EXECUTED COPY OF THE AGREEMENT SHALL BE FILED WITH THE COUNTY CLERK OF EACH COUNTY WHICH CONTAINS TERRITORY OR A PORTION OF THE TERRITORY OF EACH AFFECTED SCHOOL DISTRICT. <A]

[A> 6-13-1406. BOARD OF DIRECTORS - TERM - ELECTION. <A]

[A> (A)(1) UNLESS THE BOARDS OF DIRECTORS OF THE AFFECTED DISTRICT OR DISTRICTS AND THE BOARD OF DIRECTORS OF THE RECEIVING DISTRICT OR DISTRICTS AGREE OTHERWISE, THE BOARD OF DIRECTORS OF THE RECEIVING DISTRICT OR DISTRICTS AFTER ANNEXATION SHALL BE THE SAME BOARD OF DIRECTORS OF THE RECEIVING DISTRICT PRIOR TO ANNEXATION UNTIL THE NEXT REGULAR SCHOOL ELECTION. <A]

[A> (2) THE BOARDS OF DIRECTORS OF THE AFFECTED DISTRICTS MAY BY AGREEMENT ESTABLISH A NEW BOARD OF DIRECTORS OTHER THAN THE CURRENT BOARD OF DIRECTORS OF THE RECEIVING DISTRICT COMPOSED OF NOT LESS THAN FIVE (5) NOR MORE THAN SEVEN (7) DIRECTORS EXCEPT FOR THOSE SCHOOL DISTRICTS ALLOWED TO DO OTHERWISE PURSUANT TO SECTION 6-13-604. <A]

[A> (3) THE BOARD OF DIRECTORS OF THE RECEIVING DISTRICT CREATED BY AGREEMENT SHALL BE

ELECTED FROM SINGLE-MEMBER ZONES OF SUBSTANTIALLY EQUAL POPULATION BASED UPON THE MOST RECENT CENSUS INFORMATION AND FROM WHICH RACIAL MINORITIES MAY BE REPRESENTED ON THE BOARD IN PROPORTIONS REFLECTED IN THE DISTRICT AS A WHOLE. <A]

[A> (B)(1) UNLESS THE BOARDS OF DIRECTORS OF THE AFFECTED DISTRICTS AGREE OTHERWISE, THE BOARD OF DIRECTORS OF THE RESULTING DISTRICT AFTER CONSOLIDATION SHALL BE COMPOSED OF SEVEN (7) MEMBERS UNTIL THE NEXT REGULAR SCHOOL ELECTION. <A]

[A> (2) THE BOARDS OF DIRECTORS OF THE AFFECTED DISTRICTS MAY BY AGREEMENT ESTABLISH A BOARD OF DIRECTORS OF THE RESULTING DISTRICT COMPOSED OF NOT LESS THAN FIVE (5) NOR MORE THAN SEVEN (7) DIRECTORS EXCEPT FOR THOSE SCHOOL DISTRICTS ALLOWED TO DO OTHERWISE PURSUANT TO SECTION 6-13-604. <A]

[A> (3) THE BOARD OF DIRECTORS OF THE RESULTING DISTRICT SHALL BE ELECTED FROM SINGLE-MEMBER ZONES OF SUBSTANTIALLY EQUAL POPULATION BASED UPON THE MOST RECENT CENSUS INFORMATION AND FROM WHICH RACIAL MINORITIES MAY BE REPRESENTED ON THE BOARD IN PROPORTIONS REFLECTED IN THE DISTRICT AS A WHOLE. <A]

[A> (C) THE LENGTH OF THE TERM OF EACH MEMBER OF THE BOA RD OF DIRECTORS AFTER ANNEXATION OR CONSOLIDATION SHALL BE FOR A TIME PERIOD AS ALLOWED BY LAW. <A]

[A> (D) AT THE FIRST MEETING OF A NEW BOARD AFTER ANNEXATION OR CONSOLIDATION, THE MEMBERS SHALL DETERMINE THEIR TERMS BY LOT SO THAT NO MORE THAN TWO (2) MEMBERS' TERMS EXPIRE DURING ANY ONE (1) YEAR. <A]

[A> (E) ANY VACANCY ON THE BOARD SHALL BE FILLED IN THE MANNER PROVIDED FOR BY LAW. <A]

[A> (F) THE ESTABLISHMENT OF A BOARD OF DIRECTORS WITH AN EVEN NUMBER OF MEMBERS FOLLOWING ANNEXATION OR CONSOLIDATION IS HEREBY PROHIBITED. <A]

[A> 6-13-1407. CREATION OF A DISTRICT - WHEN PART OF A DISTRICT TAKEN. <A]

[A> (A) ANY RECEIVING OR RESULTING DISTRICT CREATED UNDER THIS SECTION SHALL BECOME THE SUCCESSOR IN INTEREST TO THE PROPERTY OF THE DISTRICT DISSOLVED, SHALL BECOME LIABLE FOR THE CONTRACT AND DEBTS OF SUCH DISTRICT, AND MAY SUE AND BE SUED THEREFORE. <A]

[A> (B) WHEN TERRITORY LESS THAN THE ENTIRE DISTRICT IS ANNEXED OR CONSOLIDATED TO A DISTRICT, THE RECEIVING OR RESULTING DISTRICT SHALL TAKE THE PROPERTY OF THE DISTRICT FROM WHICH THE TERRITORY WAS TAKEN, AS THE STATE BOARD OF EDUCATION SHALL DEEM PROPER, AND SHALL BE LIABLE FOR THAT PART OF ALL INDEBTEDNESS OF THE DISTRICT FROM WHICH THE TERRITORY WAS TAKEN AS SHALL BE ASSIGNED TO THEM BY THE STATE BOARD OF EDUCATION UNLESS OTHERWISE APPROVED BY MAJORITY VOTE OF THE AFFECTED SCHOOL DISTRICT OR DISTRICTS BOARDS OF DIRECTORS. <A]

[A> 6-13-1408. ANNEXATION OR CONSOLIDATION NOT TO NEGATIVELY IMPACT STATE-ASSISTED DESEGREGATION. <A]

[A> (A) THE STATE BOARD OF EDUCATION SHALL NOT ORDER ANY ANNEXATION OR CONSOLIDATION UNDER THIS SUBCHAPTER OR ANY OTHER ACT OR COMBINATION UNDER ANY ACT WHICH HAMPERS, DELAYS, OR IN ANY MANNER NEGATIVELY AFFECTS THE DESEGREGATION EFFORTS OF A SCHOOL DISTRICT OR DISTRICTS IN THIS STATE. <A]

[A> (B) PRIOR TO THE ENTRY OF ANY ORDER UNDER THIS SUBCHAPTER, THE STATE BOARD OF EDUCATION SHALL SEEK AN ADVISORY OPINION FROM THE ATTORNEY GENERAL CONCERNING THE IMPACT OF THE PROPOSED ANNEXATION OR CONSOLIDATION ON THE EFFORT OF THE STATE TO ASSIST A DISTRICT OR DISTRICTS IN DESEGREGATION OF THE PUBLIC SCHOOLS OF THIS STATE. <A]

[A> (C) ANY ORDER OF ANNEXATION OR CONSOLIDATION OR COMBINATION THEREOF WHICH VIOLATES THE

PROVISIONS OF THIS SECTION SHALL BE NULL AND VOID. <A]

[A> 6-13-1409. STATE BOARD OF EDUCATION. <A]

[A> (A) THE STATE BOARD OF EDUCATION SHALL HAVE THE FOLLOWING DUTIES REGARDING CONSOLIDATIONS AND ANNEXATIONS: <A]

[A> (1) TO FORM LOCAL SCHOOL DISTRICTS, CHANGE BOUNDARY LINES OF SCHOOL DISTRICTS, DISSOLVE SCHOOL DISTRICTS AND ANNEX THE TERRITORY OF SUCH DISTRICTS TO ANOTHER DISTRICT, CREATE NEW SCHOOL DISTRICTS, AND PERFORM ALL OTHER FUNCTIONS REGARDING CHANGES IN SCHOOL DISTRICTS IN ACCORDANCE WITH THE LAW; <A]

[A> (2) TO TRANSFER FUNDS AND ATTACH TERRITORY WHICH IS IN NO SCHOOL DISTRICT TO OTHER SCHOOL DISTRICTS AS MAY SEEM BEST FOR THE EDUCATIONAL WELFARE OF THE CHILDREN; AND <A]

[A> (3) TO ENACT RULES AND REGULATIONS REGARDING THE CONSOLIDATION AND ANNEXATION OF SCHOOL DISTRICTS UNDER THIS TITLE. <A]

[A> (B)(1) ANY PERSON BEING A PARTY TO A PROCEEDING IN FRONT OF THE STATE BOARD OF EDUCATION CONCERNING CONSOLIDATION OR ANNEXATION WHO FEELS AGGRIEVED BY ANY FINAL ORDER OR DECISION OF THE STATE BOARD OF EDUCATION MAY FILE A PETITION FOR APPEAL FROM SUCH FINAL ORDER OR DECISION, PROVIDED, WITHIN THIRTY (30) DAYS FROM THE DATE OF THE FINAL ORDER OR DECISION COMPLAINED OF, THE PERSON SHALL: <A]

[A> (A) MAKE AN AFFIDAVIT THAT THE APPEAL TAKEN FROM SUCH FINAL ORDER OR DECISION OF THE STATE BOARD OF EDUCATION IS NOT TAKEN FOR PURPOSES OF DELAY; AND <A]

[A> (B) ENTER INTO A BOND WITH GOOD AND SUFFICIENT SURETY THEREON IN SUCH SUM AS SHALL BE ORDERED BY THE STATE BOARD, NOT TO EXCEED TWICE THE AMOUNT OF PROPERTY TAX REVENUES INVOLVED IN THE APPEAL. <A]

[A> (2) THE APPEAL PROVIDED IN THIS SECTION SHALL BE TO THE CIRCUIT COURT OF PULASKI COUNTY. <A]

SECTION 2. Arkansas Code 6-14-122 is amended to read as follows:

6-14-122. Consolidation, annexation, or merger of districts.

(a) The consideration of the question of the consolidation, [A> OR <A] annexation [D> , or merger <D] of two (2) or more school districts, or parts thereof, in their entireties (kindergarten through twelfth grade), may be made at the annual school election with the issue of combining the districts and the levying of a specified tax millage to support the new district placed on the ballot as a single issue, in order to assure that when the two (2) or more districts, or parts thereof, are combined into one district, a single millage will be levied for support of the new district.

(b) [D> Furthermore, the <D] [A> THE <A] board of directors of the districts may, by resolution duly adopted and with the approval of the Director of the Department of Education, set a date for the annual school election in that year for the districts involved on a date other than the date set in Section 6-14-102 for all school districts, provided only one (1) annual school election may be held in any school district in one (1) calendar year.

[A> (C) IF THE STATE BOARD OF EDUCATION IS PETITIONED BY THE BOARD OF DIRECTORS OF A SCHOOL DISTRICT OR DISTRICTS, BY RESOLUTION DULY ADOPTED BY MAJORITY VOTE OF EACH OF THE LOCAL BOARDS, OR WHEN PETITIONED BY AT LEAST TWENTY-FIVE PERCENT (25%) OF THE QUALIFIED ELECTORS OF A SCHOOL DISTRICT OR DISTRICTS AS CERTIFIED IN WRITING BY THE COUNTY CLERK OF EACH COUNTY WHERE THE SCHOOL DISTRICT OR DISTRICTS ARE LOCATED, THE STATE BOARD OF EDUCATION MAY CALL A SPECIAL ELECTION TO BE HELD TO CONSIDER THE QUESTION OF CONSOLIDATION OR ANNEXATION OF THE

SCHOOL DISTRICTS AS OTHERWISE ALLOWED FOR IN SUBSECTION (A) OF THIS SECTION. <A]

[A> (D) THE SPECIAL ELECTION ON CONSOLIDATION OR ANNEXATION SHALL BE HELD BY THE SAME OFFICIALS AT THE SAME POLLING PLACES, AND THE RETURNS SHALL BE MADE, CANVASSED, AND PUBLISHED IN THE SAME MANNER AS IS PROVIDED BY LAW FOR ANNUAL SCHOOL ELECTIONS. <A]

Source:
Lexis-Nexis/StateNet

Status: Signed into law **Status Date:** 03/01/2001

Arkansas Department of Education
Consolidation/Annexations of LEA's
(1983-June 30, 2012)

# of Dist. After Merge	Effective Date	LEA	County	New District	Districts that Consolidated/Annexed to form new district			
369	1-Jul-83	3606	Johnson	Westside	Coal Hill	Hartman		
368	1-Jul-83	3804	Lawrence	Hoxie	Hoxie	Cloverbend		
367	1-Jul-83	3508	Jefferson	Wabbaseka Tucker	Wabbaseka Tucker	Plum Bayou		
366	1-Jul-84	1106	Clay	Clay County Central	Greenway	Rector		
365	1-Jul-84	4708	Mississippi	Gosnell	Gosnell	Dell		
364	1-Jul-84	1605	Craighead	Buffalo Island Central	Monette	Leachville		
363	1-Jul-84	2803	Greene	Marmaduke	Marmaduke	Lafe		
362	1-Jul-84	203	Ashley	Hamburg	Hamburg	Portland		
361	1-Jul-84	3505	Jefferson	Pine Bluff	Pine Bluff	Linwood		
360	1-Jul-85	4003	Lincoln	Star City	Star City	Glendale		
359	1-Jul-85	1613	Craighead	Riverside	Caraway	Lake City		
358	1-Jul-85	306	Baxter	Tri County	Big Flat	Fifty Six		
357	1-Jul-85	3306	Izard	Izard County Consolidated	Oxford	Violet Hill		
356	1-Jul-85	7509	Yell	Western Yell County	Havana	Belleville		
355	1-Jul-85	2705	Grant	Sheridan	Sheridan	Grapevine		
354	1-Jul-85	3201	Independence	Batesville	Batesville	Desha		
353	1-Jul-85	602	Bradley	Warren	Warren	Banks		
352	1-Jul-85	3403	Jackson	Newport	Newport	Beedeville		
351	1-Jul-85	1101	Clay	Corning	Corning	Knobel		
347	1-Jul-85	5008	Nevada	Nevada County S.D.	Cale	Oakgrove	Willisville	Laneburg
346	1-Jul-85	2808	Greene	Northeast AR	Oak Grove	Paragould		
345	1-Jul-85	3211	Independence	Midland	Floral	Pleasant Plains		
344	1-Jul-85	101	Arkansas	DeWitt	DeWitt	St Charles		
343	1-Jul-85	5201	Ouachita	Bearden	Bearden	Thornton		
342	1-Jul-85	1301	Cleveland	Kingsland	Kingsland	New Edinburg		
341	1-Jul-85	902	Chicot	Eudora	Eudora	Ross Van Ness		
340	1-Jul-86	5605	Poinsett	Trumann	Trumann	Common		

316	1-Jul-93	3405	Jackson Co	Jackson Co	Tuckerman	Grubbs		
315	1-Sep-93	3501	Jefferson	Altheimer Unified	Altheimer-Sherrill	Wabbaseka Tucker		
314	1-Jul-94	203	Ashley	Hamburg	Hamburg	Parkdale		
313	1-Jul-94	2705	Grant	Sheridan	Sheridan	Prattsville		
312	1-Jul-94	2808	Greene	Northeast AR	Northeast AR	Stanford		
311	1-Jul-95	5502	Pike	Centerpoint	Glenwood	Amity		
310	1-Jul-98	4303	Lonoke	Carlisle	Carlisle	Humnoke		
309	1-Jul-03	6502	Searcy	Marshall	Marshall	Witts Springs		
308	1-Jul-03	3704	Lafayette	Lafayette County	Lewisville	Stamps		
306	1-Jul-04	101	Arkansas	DeWitt	DeWitt	Gillett	Humphrey	
305	1-Jul-04	203	Ashley	Hamburg	Hamburg	Fountain Hill		
304	1-Jul-04	1101	Clay	Corning	Corning	Biggers-Reyno		
303	1-Jul-04	1201	Cleburne	Concord	Concord	Wilburn		
302	1-Jul-04	1305	Cleveland	Cleveland County	Rison	Kingsland		
301	1-Jul-04	1402	Columbia	Magnolia	Magnolia	Walker		
300	1-Jul-04	1408	Columbia	Emerson-Taylor	Emerson	Taylor		
299	1-Jul-04	1704	Franklin	Mulberry/Pleasant View Bi-County	Mulberry	Pleasant View		
298	1-Jul-04	1804	Crittenden	Marion	Marion	Crawfordsville		
297	1-Jul-04	2104	Desha	Dumas	Dumas	Gould		
295	1-Jul-04	2105	Desha	McGehee	McGehee	Arkansas City	Delta Special	
294	1-Jul-04	2404	Franklin	Ozark	Ozark	Altus-Denning		
293	1-Jul-04	2807	Greene	Greene County Tech	Greene County Tech	Delaplaine		
292	1-Jul-04	2901	Hempstead	Blevins	Blevins	Emmet		
291	1-Jul-04	3004	Hot Springs	Malvern	Malvern	Carthage		
290	1-Jul-04	3104	Howard	Mineral Springs	Mineral Springs	Saratoga		
289	1-Jul-04	3212	Independence	Cedar Ridge	Newark	Cord Charlotte		
288	1-Jul-04	3302	Izard	Melbourne	Melbourne	Mt. Pleasant		
287	1-Jul-04	3405	Jackson	Jackson County	Jackson County	Swifton		
286	1-Jul-04	3809	Lawerence	Hillcrest	River Valley	Lynn		
285	1-Jul-04	4003	Lincoln	Star City	Star City	Grady		
284	1-Jul-04	4401	Madison	Huntsville	Huntsville	St. Paul		
283	1-Jul-04	4603	Miller	Fouke	Fouke	Bright Star		
282	1-Jul-04	4802	Monroe	Clarendon	Clarendon	Holly Grove		

HEARING PROCEDURES

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

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Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

July 20, 2015

Joel and Joy Wilkison
[redacted]
Brinkley, AR 72021

Arthur Tucker, Superintendent
Brinkley School District
200 Tiger Drive
Brinkley, AR 72021

Jon Estes, Superintendent
Palestine-Wheatley School District
P.O. Box 790
Palestine, AR 72372

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is scheduled to hear the above-referenced appeal(s) on **Thursday, August 6, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on Friday, July 24, 2015**.

The Arkansas State Board of Education has requested the parent, the non-resident district, and the resident district attend this meeting and be available for questions.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

Jennifer Davis
Staff Attorney
Arkansas Department of Education
Four Capitol Mall, Room 301-A
Little Rock, AR 72201
(501) 682-4227
(501) 682-4249 (fax)
jennifer.davis@arkansas.gov

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APPEAL

June 30, 2015

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Office of the Commissioner
AR Public School Choice Act
Four Capital Mall
Little Rock, AR 72201

RECEIVED
ATTORNEY'S OFFICE
JUL 02 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

Dear Commissioner:

My name is Joy Wilkison and I live in Brinkley, AR with my husband, Joel, and my daughter, J[redacted] We live in the Brinkley school district but would very much like to send our daughter to the Palestine/Wheatley school. J[redacted] will be in the 8th grade this year. We sent in a school choice form several months ago and just received a letter stating that we have been denied because Brinkley is exempt from the provisions of the School Choice Law due to it being under a desegregation order. I was very saddened about this because we had such high hopes of her attending the Palestine/Wheatley school. J[redacted] has never been a student in the Brinkley school system because she has always attended school in Marvell, AR. Therefore, I feel like we are not taking anything away from the Brinkley school system since our child has never attended there.

One of the main reasons for us wanting her to attend school in the Palestine/Wheatley school is the art program offered there. Our daughter plans to be an art major and has taken private art lessons in Wheatley for the past six years and loves art! The art teacher who will be at Palestine/Wheatley this year is an excellent teacher and is actually coming from the Brinkley school district to the Palestine/Wheatley school. We would love for J[redacted] to receive art instruction from him and experience his class and just continue to grow in her talent and love of art. We feel that this would be a wonderful opportunity for her to experience art in a way that she never has before by being exposed to more instruction on art.

J[redacted] is interested in drama and Palestine/Wheatley offers a drama class. She is very much interested in taking this because she loves to perform and has participated in drama through her youth choir at our church . She has also taken a drama class offered at a Praise Works camp at OBU and plans to take another one this summer.

The Palestine/Wheatley school offers Spanish with a live teacher and not a video instructor. J[redacted] has expressed an interest in learning Spanish and I think this would be an excellent opportunity for her. We feel like the Palestine/Wheatley school offers the academic courses our child needs and wants to help further her education. Also, the Palestine/Wheatley school parallels the values of what J[redacted] was use to with her former school. This is very important to our family.

We feel that it is our right as American citizens to send our child to the school of our choice and see that our child gets the best education she can to help her in her future. If you would please consider our request to send our daughter to the Palestine/Wheatley school we feel

this would be in the best interest of our child's education. We appreciate your assistance in this matter and we look forward to hearing from you.

Sincerely,

Joel + Joy Wilkison

Joel and Joy Wilkison
[redacted]
Brinkley, AR 72021

phone # [redacted] Joy's cell
phone # [redacted] Joel's cell
phone # [redacted] Joy's work

Palestine-Wheatley School District

Home Of The Mighty Patriots

June 18, 2015

Dear Joy Wilkerson,

I am sorry, but the application you submitted for J[redacted] Wilkerson has been rejected for the following reason.

__X__ Your child's resident district has declared itself exempt from the provisions of the School Choice Law due to it being under a desegregation order.

_____ Your child's resident district has reached it's limitation cap for allowable transfers and we cannot accept any additional school choice transfers from that district.

_____ Lack of capacity, teachers, staff or classrooms

As noted in your original application, you have 10 days from receipt of this notice in which to appeal this decision to the State Department of Education.

Respectfully,

Jon Estes

Jon Estes
Superintendent
Palestine-Wheatley School District

Jess Wilkison
[redacted]
Brinkley, AR
72021

RECEIVED
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JUL 2 2015
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RESPONSE

ASSOCIATED DOCUMENTS

SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection and applies for a school choice transfer under § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(3) A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under subdivision (c)(2) of this section may complete all remaining school years at the nonresident district.

SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to read as follows:

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district ~~with a copy to~~ ,which shall notify the resident district of the filing of the application;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) A nonresident district that receives an application under subsection (a) of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

(c) A nonresident district shall review and make a determination on each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

1 ~~subsection is irrevocable for one (1) year from the date the school district~~
2 ~~notifies the Department of Education of the declaration of exemption.~~
3 ~~(B) After each year of exemption, the board of directors~~
4 ~~may elect to participate in public school choice under this section if the~~
5 ~~school district's participation does not conflict with the school district's~~
6 ~~federal court-ordered desegregation program.~~
7 ~~(3) A school district shall notify the department by April 1 if~~
8 ~~in the next school year the school district intends to:~~
9 ~~(A) Declare an exemption under this section; or~~
10 ~~(B) Resume participation after a period of exemption.~~
11 ~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit
12 on school choice transfers each school year from a school district, less any
13 school choice transfers into the school district, under this section of not
14 *more than three percent (3%) of the* ~~*school district's three-quarter average*~~
15 ~~*daily membership for the*~~ *enrollment that exists in the school district as of*
16 *October 15 of the immediately preceding school year.*
17 (B) For the purpose of determining the percentage of school
18 choice transfers under this subsection, siblings who are counted in the
19 numerator as transfer students shall count as one (1) student~~, and siblings~~
20 ~~who are counted in the denominator as part of the average daily membership~~
21 ~~shall count as one (1) student~~.
22 (C) A student eligible to transfer to a nonresident
23 district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count
24 against the cap of three percent (3%) of the resident or nonresident
25 district.
26 (2) Annually by ~~June 1~~ *December 15*, the department shall report
27 to each school district the net maximum number of school choice transfers for
28 the ~~current~~ next school year.
29 (3) If a student is unable to transfer due to the limits under
30 this subsection, the resident district shall give the student priority for a
31 transfer in the ~~following~~ first school year in which the district is no
32 longer subject to subdivision § (b)(1) of this section in the order that the
33 resident district receives notices of applications under § 6-18-1905, as
34 evidenced by a notation made by the district on the applications indicating
35 date and time of receipt.
36

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY	
Date and Time Received by Resident District:	Date and Time Received by Nonresident District:
Resident District LEA #:	Nonresident District LEA#:
Student's State Identification #:	
Application Accepted ☐	Rejected ☐
Reason for Rejection (If Applicable):	
Date Notification Sent to Parent/Guardian of Applicant:	
Date Notification Sent to Resident District :	

HEARING PROCEDURES

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

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10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

July 20, 2015

Glen Bashaw
[redacted]
Colt, AR 72326

Tiffany Hardrick, Superintendent
Forrest City School District
625 Irving Street
Forrest City, AR 72335

Carl Easley, Superintendent
Wynne School District
P.O. Box 69
Wynne, AR 72396

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is scheduled to hear the above-referenced appeal(s) on **Thursday, August 6, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on Friday, July 24, 2015**.

The Arkansas State Board of Education has requested the parent, the non-resident district, and the resident district attend this meeting and be available for questions.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

Jennifer Davis
Staff Attorney
Arkansas Department of Education
Four Capitol Mall, Room 301-A
Little Rock, AR 72201
(501) 682-4227
(501) 682-4249 (fax)
jennifer.davis@arkansas.gov

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

Glen J. Bashaw
[redacted]
Colt AR, 72326

RECEIVED
COMMISSIONER'S OFFICE
JUL 8 2015
DEPARTMENT OF EDUCATION

RECEIVED
ATTORNEY'S OFFICE
JUL 08 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

June 28th 2015

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeal
Four Capitol Mall
Little Rock, AR 72201

RE: Denied School Transfer Request

Dear Commissioner and State Board of Education,

I am Glen J. Bashaw, the father of R[redacted] Bashaw. I am writing to appeal the denial of school transfer request. I humbly and sincerely request the transfer request be reconsidered for the following reasons. R[redacted] Bashaw is currently enrolled in and has attended Wynne School District since the school year of 2012-2013, when she started kindergarten.

Brandy (Bunch) Bolender and myself have joint custody of R[redacted] and her mother currently resides within the Wynne School District. However, a recent custody issue has arisen and her mother is seeking to relocate. I am attempting to be proactive in the event I am granted full custody. This will help keep stability in my child's life and education, as well as it is in my child's best interest to remain in the Wynne School District. Please feel free to contact me at phone number [redacted] for any further questions and/or concerns or to schedule a meeting. I look forward to hearing from you and thank you for your time and consideration in this matter.

Sincerely,

Glen J. Bashaw

Enclosure(s)

Glen J. Bashaw
[redacted]
Colt AR, 72326

June 28th 2015

Wynne Public Schools
P.O. Box 69
Wynne, AR 72396

RE: Denied School Transfer Request

Dear Superintendent Carl Easley,

I am Glen J. Bashaw, the father of R[redacted] Bashaw. I am writing to appeal the denial of school transfer request. I humbly and sincerely request the transfer request be reconsidered for the following reasons. R[redacted] Bashaw is currently enrolled in and has attended Wynne School District since the school year of 2012-2013, when she started kindergarten.

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Sincerely,

Glen J. Bashaw

Enclosure

BOARD OF EDUCATION:
STACIE SCHLENKER, President
SPENCER PARKER, Vice-President
SHANNON HOBBS, Secretary

Member AdvancEd

JACKIE CLARK, Board Member
NEALL JACKSON, D.D.S., Board Member

Wynne Public Schools

Carl Easley, Superintendent
P.O. Box 69
Wynne, Arkansas 72396
Phone: (870) 238-5020 Fax: (870) 238-5011

July 24, 2015

Glen Bashaw
Re: R[redacted] Bashaw
[redacted]
Colt, AR 72335

Dear Mr. Bashaw,

Thank you for your application for a school choice transfer to the Wynne School District. We appreciate your interest in our schools. We regret to inform you that we must deny your application for the 2015-16 school year due to the Forrest City School District declaring an exemption from the Public School Choice Act of 2015 due to the provisions of a desegregation court order.

Under Ark. Code Ann. § 6-18-1905, any student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer. A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905. The student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district. **(Please see highlighted Section 8.00 of enclosure.)** The request for a hearing shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

We hope that you will continue to consider the Wynne School District in the future.

Sincerely,

Carl Easley
Superintendent

Enclosure

An Equal Opportunity Employer

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT
"ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"
(Must Be Submitted to Non-Resident District)

APPLICANT INFORMATION

Student Name: R[redacted] BASHAW

Student Date of Birth: [redacted] Gender Male ☐ Female ☑

Grade: 3RD

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☑ Asian ☐ African-American ☐

Hispanic ☑ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☑

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: FOREST CITY County Name: ST FRANCIS

Address: 2956 HWY 306 E COLT, AR 72326

Phone: (870) 362-6830

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: WYNNE County Name: CROSS

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

NO BUT IS CURRENTLY ENROLLED IN WYNNE

PARENT OR GUARDIAN INFORMATION	
Name: GLEN BASHAW (FATHER)	Home Phone: [redacted]
Address: [redacted]	Work Phone: [redacted]
COLT, AK 72326	
Parent/Guardian Signature: [signature]	Date: 4/23/15

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY	
Date and Time Received by Resident District:	Date and Time Received by Nonresident District: 4/23/15 2:45 p.m. (am)
Resident District LEA #:	Nonresident District LEA#: 1905000
Student's State Identification #:	
Application Accepted [ ]	Rejected [ ]
Reason for Rejection (If Applicable):	
Date Notification Sent to Parent/Guardian of Applicant:	
Date Notification Sent to Resident District :	

ALEN J. BASHAW
[redacted]
COLT, AR 72326

CERTIFIED MAIL™

7006 0100 0002 6843 4069

UNITED STATES POSTAGE
PITNEY BOWES
02 1P $ 007.14
0001793500 JUL 02 2013
MAILED FROM ZIP CODE 72326

OFFICE OF THE COMMISSIONER
ATTN: ARKANSAS PUBLIC SCHOOL CHOICE ACT APPEAL
FOUR CAPITOL MALL
LITTLE ROCK, AR 72201

RESPONSE

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COMMISSIONER'S OFFICE
JUL 17 2015
DEPARTMENT OF EDUCATION

July 13, 2015

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

To Whom It May Concern:

This letter is in response to the School Choice appeal letter from the Bashaw family regarding the decision made by the Wynne School District denying the transfer request of R[redacted] Bashaw, Grade 3, from the Forrest City School District to the Wynne School District.

R[redacted] has attended the Wynne School District for the past two years and her mother resides in the Wynne School District. It is my understanding that the mother has remarried and will be moving out of state and that R[redacted] will be living with her father who resides in the Forrest City School District. Under current law, school choice is not an option for R[redacted] I have encouraged her father to request a legal transfer from the Forrest City School District given the circumstances. I do, however, expect this request to be denied.

The Wynne School District will be glad to accept any students under freedom of choice, but Forrest City has claimed an exemption due to a previous desegregation order from 1971. We have accepted all transfer requests from Forrest City for Grades 5-12 under Opportunity School Choice. As a result of our accepting students under Opportunity School Choice, Forrest City has filed a lawsuit.

Sincerely,

Carl Easley
Superintendent

Office of the Superintendent
Wynne Public Schools
P.O. Box 69
Wynne, Arkansas 72396

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ASSOCIATED DOCUMENTS

SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

1 (2)(A) A student who accepts a public school choice
2 transfer may return to his or her resident district during the school year.
3 (B) If a transferred student returns to his or her
4 resident district, the student's transfer is voided, and the student shall
5 reapply if the student seeks a future school choice transfer.
6 (c)(1) A transfer student attending a nonresident school under this
7 subchapter may complete all remaining school years at the nonresident
8 district.
9 (2) A present or future sibling of a student who continues
10 enrollment in the nonresident district under this subsection and applies for
11 a school choice transfer under § 6-18-1905 may enroll in ~~or continue~~
12 ~~enrollment in~~ the nonresident district ~~until the sibling of the transfer~~
13 ~~student completes his or her secondary education,~~ if the district has the
14 capacity to accept the sibling without adding teachers, staff, or classrooms
15 or exceeding the regulations and standards established by law.
16 (3) A present or future sibling of a student who continues
17 enrollment in the nonresident district and who enrolls in the nonresident
18 district under subdivision (c)(2) of this section may complete all remaining
19 school years at the nonresident district.
20
21 SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to
22 read as follows:
23 6-18-1905. Application for a transfer.
24 (a) If a student seeks to attend a school in a nonresident district,
25 the student's parent shall submit an application:
26 (1) To the nonresident district ~~with a copy to~~ ,which shall
27 notify the resident district of the filing of the application;
28 (2) On a form approved by the Department of Education; and
29 (3) Postmarked no later than ~~June~~ May 1 of the year in which the
30 student seeks to begin the fall semester at the nonresident district.
31 (b) A nonresident district that receives an application under
32 subsection (a) of this section shall, upon receipt of the application, place
33 a date and time stamp on the application that reflects the date and time the
34 nonresident district received the application.
35 (c) A nonresident district shall review and make a determination on
36 each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

~~subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:~~

~~(A) Declare an exemption under this section; or~~

~~(B) Resume participation after a period of exemption.~~

~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not *more than three percent (3%) of the* ~~*school district's three-quarter average daily membership for the*~~ *enrollment that exists in the school district as of October 15 of the immediately preceding school year.*

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

(C) A student eligible to transfer to a nonresident district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

(2) Annually by ~~June 1~~ *December 15*, the department shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to subdivision § (b)(1) of this section in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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A.C.A. § 6-18-1901

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A.C.A. § 6-18-1901

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1901

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A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903

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A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904

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A.C.A. § 6-18-1905

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A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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Title 6 Education
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Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

A.C.A. § 6-18-1908

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908
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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY	
Date and Time Received by Resident District:	Date and Time Received by Nonresident District:
Resident District LEA #:	Nonresident District LEA#:
Student's State Identification #:	
Application Accepted ☐	Rejected ☐
Reason for Rejection (If Applicable):	
Date Notification Sent to Parent/Guardian of Applicant:	
Date Notification Sent to Resident District :	

August 3, 2015

BEFORE THE
ARKANSAS STATE BOARD OF EDUCATION

IN RE: BASHAW SCHOOL CHOICE APPEAL

RESPONSE OF FORREST CITY SCHOOL DISTRICT

On or about June 28, 2015, Glen Bashaw appealed the decision of the Wynne School District denying his transfer applications, on behalf of his child, R. Bashaw. The transfer request was made pursuant to the Public School Choice Act of 2015. For reasons not yet entirely clear, the Forrest City District did not become aware of this transfer request until July 29, 2015.

I. The Appeal is Deficient and Premature

The appeal is deficient in that the **ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF 2013, 2015,** adopted April 9, 2015, state:

> "8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district."

Mr. Bashaw in his appeal letter concedes that his child is currently living with his ex-wife, a resident of the Wynne School District and attending Wynne schools. He states that a recent custody issue has arisen and he is acting "proactively", presumably in case he prevails in the custody battle.

He attached to his appeal competing custody petitions filed, one for his wife and one himself. A review of the current status of the docket sheet in that case, St. Francis County Circuit, 62 DR 11-54-3 shows that there has been no hearing scheduled in the matter and no determination made as to custody. Copy attached as Exhibit A. It will likely be months before this issue is resolved in court and even then the status quo may not change.

It is premature for this Board to grant an appeal based on a possible change in custody that has not yet been ruled on by the appropriate court. In fact, such a ruling by this Board might be considered as interference with the Judicial process.

At the present time and prior to the deadline for filing an application for transfer under the 2015 Act, the child was a resident of the Wynne School District and eligible to attend the Wynne School District. Any application for transfer if and after the child becomes a resident of the Forrest City School District, or even if and when the court so rules, an application can then be filed.

Mr. Bashaw was apparently aware of this and did, in fact, file an application for Legal Transfer by letter to the Forrest City School District on July 15, 2015. This is the Application counsel relied upon by e-mail letter to ADE counsel on July 24, 2015. That application has not been acted on by the Forrest City School District, and is unlikely to be granted because it is not ripe for resolution.

The filing of the Legal Transfer did cause confusion in this matter leading to this current submission. The District, for whatever reason did not receive the initial notification of this appeal e-mailed by ADE counsel on July 9, 2015. When the certified letter notifying the FCSD of the hearing, dated July 20, was received late July 23 setting forth a deadline of July 24 at noon for submission in opposition, the only thing the district had was the Parent's Legal transfer request. The District's counsel replied to that admitting confusion. It was only when the agenda was viewed late July 30, and in a call with ADE counsel on July 31, that part of confusion was was explained.

What is clear is that there is no request for transfer that is ripe for a decision before this Board. The child is apparently a properly enrolled student of the Wynne School District and no

judicial decision has been made or is even likely for months transferring custody to Mr. Bashaw changing the status of the child. Indeed, the court may permit the move to Mississippi; we do not know and are not privy to all of the facts that will be presented to the court.

If such a decision is made a transfer would not be appropriate under the current law.

II. Current litigation between Forrest City and Wynne

As ADE had been previously informed, there is currently ongoing litigation in the Federal Court of the Eastern District of Arkansas, between the two school districts (and another district) and the applicably of the 2015 school choice act including the exemptions declared by Forrest City are before the court on current motions and should be addressed soon.

III. Exemption Under the 2015 Act

In support of its exemption to the 2015 Act, Forrest City supplied the Arkansas Department of Education with the supporting information and orders as required by the Act on April 14, 2015, and has been listed by the Department as a District claiming an Exemption.

Forrest City is neither inviting nor encouraging this Board to scrutinize these orders. Rather, they are offered simply for the proposition that the appellants cannot disprove the fact that Forrest City continues to operate pursuant to a court ordered and approved plan from 1971 which specifically disapproved choice as an element for that plan and which show other conflicts with the federal court orders. Accordingly, choice is not a permissible option for students residing within the Forrest City School District. This Board need not second guess that circumstance but should simply deny any and all appeals for transfer and would otherwise conflict with the *McKissic* orders from Forrest City to any other school district.

As recently as July 17, 2015, the Attorney General of Arkansas in Opinion No. 2015-051 has Opined that once a District has declared an exemption and provided the required documentation there is no further action for the ADE and by extension this board, as follows:

"In my opinion, the ADE is neither authorized nor obligated to take the actions contemplated. As mentioned above, the law is silent on what, if anything, the ADE is supposed to do with the "proof" that a school district submits. The Public School Choice Act, as amended by Act 560, does not charge the ADE to undertake to verify a school district's claim of exemption*[18]* or make a determination as to the sufficiency or truth of the proof submitted.*[19]* Nor has my research yielded any other law assigning such a role to the ADE."

In conclusion, the transfer should be denied for all the reasons as set forth above.

Respectfully submitted,

MITCHELL, WILLIAMS, SELIG,
GATES & WOODYARD, P.L.L.C.
425 West Capitol Avenue, Suite 1800
Little Rock, Arkansas 72201
Telephone: (501) 688-8800
Facsimile: (501) 688-8807
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/s/ M. Samuel Jones, III
M. Samuel Jones III (76060)

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Telephone: 870-633-3141
Facsimile: 870-633-3594
E-mail brbeavers@sbcglobal.net

/s/ Brad J. Beavers
Brad J. Beavers
Attorneys for Forrest City School District

Contexte Case Summary

ST. FRANCIS of the CIRCUIT

Case ID: **62DR-11-54**	**BRANDY BASHAW V GLEN BASHAW**	Sealed: No	Case Type: DIVORCE	Filing Date: February 22, 2011
Case Age: 125 Days	Case Status: CASE RE-OPENED		Trial Type: NON-TRIAL	Claim/Amt:

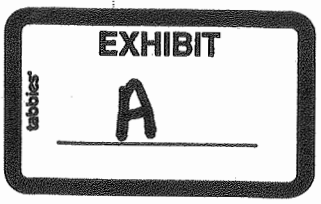
+ Party Summary: Number of Parties 1, Balance Owed: .00 (includes party and violation fees)

- Dockets

AFFIDAVIT OF SERVICE	**Date: July 8, 2015 09:00:00 AM**	**Filed by:**
AFFIDAVIT OF SERVICE	**Date: July 8, 2015 09:00:00 AM**	**Filed by:**
ANSWER FILED	**Date: May 1, 2015 10:48:36 AM**	**Filed by:**

PLT ANSWER TO DEFENDANT'S PETITION FOR CHANGE OF CUSTODY

AFFIDAVIT OF SERVICE	**Date: April 27, 2015 09:00:00 AM**	**Filed by:**
PETITION	**Date: April 22, 2015 03:47:44 PM**	**Filed by:**
ANSWER FILED	**Date: April 20, 2015 11:55:54 AM**	**Filed by:**
AOC COVERSHEET REOPEN DOM REL	**Date: March 31, 2015 10:47:33 AM**	**Filed by:**
MOF REOPEN CUSTODY/VISITATION	**Date: March 31, 2015 09:00:00 AM**	**Filed by:**



SUMMONS ISSUED GLEN JASON BASHAW	**Date: March 31, 2015 09:00:00 AM**	**Filed by:**
COMPLAINT/PETITION FILED VERIFIED PATITION TO MODIFY CUSTODY PROVISIONS OF DECREE OF DIVORCE	**Date: March 31, 2015 09:00:00 AM**	**Filed by:**
MOD OTHER DECREE/DISPOSITION TRLDISP: N	**Date: May 8, 2012 08:00:00 AM**	**Filed by:**
CONFIDENTIAL INFORMATION SHEET	**Date: June 23, 2011 08:00:00 AM**	**Filed by:**
MOF REOPEN CUSTODY/VISITATION TRLDISP: N	**Date: June 23, 2011 08:00:00 AM**	**Filed by:**
PUB LAW 104-193 INFORMATION	**Date: June 23, 2011 08:00:00 AM**	**Filed by:**
MOD JUDGMENT/DECREE/ORDER TRLDISP: N	**Date: May 19, 2011 08:00:00 AM**	**Filed by:**
MOF ORIGINAL TRLDISP: N	**Date: February 22, 2011 08:00:00 AM**	**Filed by:**
PUB LAW 104-193 INFORMATION	**Date: February 22, 2011 08:00:00 AM**	**Filed by:**
CONFIDENTIAL INFORMATION SHEET	**Date: February 22, 2011 08:00:00 AM**	**Filed by:**

Totals

Case Balance Owed:	.00
Total Balance Owed:	.00

HEARING PROCEDURES

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

July 21, 2015

Alicia Justice
[redacted]
Cabot, AR 72023

William Thurman, Superintendent
Cabot School District
620 North Lincoln
Cabot, AR 72023

David Stephens, Superintendent
Vilonia School District
11 Eagle Street
Vilonia, AR 72173

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is scheduled to hear the above-referenced appeal(s) on **Thursday, August 6, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on Friday, July 24, 2015.**

The Arkansas State Board of Education has requested the parent, the non-resident district, and the resident district attend this meeting and be available for questions.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

Jennifer Davis
Staff Attorney
Arkansas Department of Education
Four Capitol Mall, Room 301-A
Little Rock, AR 72201
(501) 682-4227
(501) 682-4249 (fax)
jennifer.davis@arkansas.gov

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

RECEIVED
COMMISSIONER'S OFFICE
JUL 9 - 2015
DEPARTMENT OF EDUCATION

07/06/2015

To Whom It May Concern:

Office of the Commissioner

Attention: Arkansas Public School Choice Act Appeals

I have attached a copy of the notice of the rejection of the application for Brett Wade Justice. I would like to submit an appeal for the rejection of B[redacted] Justice to attend Vilonia Public School district through the Arkansas Public School Choice Act.

I believe the transfer of school districts would be in the best interest for my child in that socially he would be able to excel in a smaller district school. We had several problems socially when he attended a much larger school district, Cabot Public Schools in prior years. The 2014-2015 school year, he was in a smaller school district in Kentucky and he exceeded socially as well as in academics. Also, his brother C[redacted] Justice was accepted into the Vilonia school district for the 2015-2016 school year and need to keep them together.

Any consideration on this matter of B[redacted] Justice to enroll in the Vilonia School District would be greatly appreciated.

Any questions or inquiries, please feel free to contact me, Alicia Justice anytime at [redacted] or my husband Robert Justice at [redacted]

Thank you,

Alicia D. Justice

Alicia D. Justice

RECEIVED
ATTORNEY'S OFFICE
JUL 09 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

Vilonia School District

Home of the Eagles

Dr. David Stephens, Superintendent

TELEPHONE 501-796-2113 • P.O. BOX 160 • VILONIA, ARKANSAS 72173

June 29, 2015

Dear Mr. & Mrs. Justice,

The school choice application you submitted for B[redacted] for enrollment in the Vilonia School District has been denied due to capacity issues in grades 4, 5, and 6. The enrollment at each of those grade levels is at or above 90% of capacity.

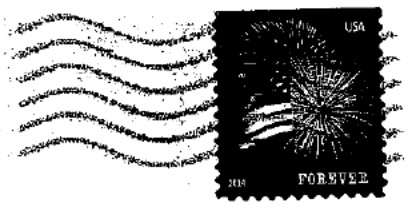
As noted in your original application, you have ten (10) days from the receipt of this notice in which to submit a written appeal of this decision to the State Board of Education.

Respectfully,

Dr. David Stephens, superintendent
Vilonia Public Schools

A. Justice
[redacted]
Cabot, AR 72023

LITTLE ROCK AR 722
07 JUL 2015 PM 2 L



Office of the Commissioner
Attn: Arkansas Public School
Choice Act Appeals
Four Capital Mall
Little Rock, AR 72201

72201101599

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT
"ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"
(Must Be Submitted to Non-Resident District)

APPLICANT INFORMATION

Student Name: B[redacted] Justice

Student Date of Birth: [redacted] Gender Male [X] Female [ ]

Grade: 6th grade (2015-2016)

Does the applicant require special needs or programs? Yes [ ] No [X]

Is applicant currently under expulsion? Yes [ ] No [X]

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races [ ] Asian [ ] African-American [ ]

Hispanic [ ] Native American/ Native Alaskan [ ] Native Hawaiian/ Pacific Islander [ ]

White [X]

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: Cabot Public School District County Name: Lonoke

Address: 602 North Lincoln Street Cabot, AR 72023

Phone: # 501.843.3363 Fax # 501.941.2613

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: Vilonia School District County Name: Faulkner

Address: P.O. Box 160 11 Eagle Street Vilonia, AR 72173

Phone: # 501.796.2113

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015? NO

PARENT OR GUARDIAN INFORMATION

Name: Robert & Alicia Justice

Home Phone: [redacted]

Address: [redacted]

Work Phone:

Cabot, AR 72023

Parent/Guardian Signature: Alicia D. Justice

Date: 4.29.15

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY

Date and Time Received by Resident District:	Date and Time Received by Nonresident District: RECEIVED MAY 0 1 2015
Resident District LEA #:	Nonresident District LEA#:

Student's State Identification #:

Application	Accepted		Rejected		

Reason for Rejection (If Applicable):

Date Notification Sent to Parent/Guardian of Applicant:

Date Notification Sent to Resident District:

RESPONSE

Subject: Re: Notice of Filing School Choice Appeal - Justice Family
Date: Tuesday, July 21, 2015 at 8:56:18 AM Central Daylight Time
From: David Stephens
To: Jennifer Davis (ADE)

Jennifer,

I denied the school choice application filed by Robert and Alicia Justice on behalf of B[redacted] Justice (6th grade) based on lack of capacity. At the time of the consideration of the application, enrollment capacity of the 6th grade was at or above 90% capacity.

I spoke with Mrs. Justice on the phone and told her that, on August 10, we will review our enrollment for that grade. If the enrollment capacity is below 90% in that grade, I will contact her to let her know that we have a spot for B[redacted].

Respectfully,
David Stephens, superintendent
Vilonia School District

On Thu, Jul 16, 2015 at 1:50 PM, Jennifer Davis (ADE) <Jennifer.Davis@arkansas.gov> wrote:

> Superintendent Stephens:
>
> Please find attached a school choice appeal filed with the ADE by the Justice Family. The family appeals the decision of the Vilonia School District to deny school choice transfer from the Cabot School District. The applicable ADE rules state that a nonresident district must file any response to the appeal within ten (10) days of receipt of the appeal. You may send any response to the following address:
>
> Office of the Commissioner
>
> ATTN: Arkansas Public School Choice Act Appeals
>
> Four Capitol Mall
>
> Little Rock, Arkansas 72201
>
> I have enclosed a copy of the current ADE rules and the school choice statutes for your review. ADE staff will send all parties a formal notification letter once any response is received (or if the ten-day time period passes without a response from the nonresident district). Thank you for your attention to this matter.
>
> Respectfully,
>
> Thanks,

Jennifer Davis

Staff Attorney

Arkansas Department of Education

Four Capitol Mall, Room 301-A

Little Rock, AR 72201

(501) 682-4227

(501) 682-4249 (fax)

jennifer.davis@arkansas.gov

--
Dr. David Stephens
Superintendent
Vilonia Schools

"You will never reach your destination if you stop
and throw rocks at every dog that barks."
Winston Churchill

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ASSOCIATED DOCUMENTS

SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

1 (2)(A) A student who accepts a public school choice
2 transfer may return to his or her resident district during the school year.
3 (B) If a transferred student returns to his or her
4 resident district, the student's transfer is voided, and the student shall
5 reapply if the student seeks a future school choice transfer.
6 (c)(1) A transfer student attending a nonresident school under this
7 subchapter may complete all remaining school years at the nonresident
8 district.
9 (2) A present or future sibling of a student who continues
10 enrollment in the nonresident district under this subsection and applies for
11 a school choice transfer under § 6-18-1905 may enroll in ~~or continue~~
12 ~~enrollment in~~ the nonresident district ~~until the sibling of the transfer~~
13 ~~student completes his or her secondary education,~~ if the district has the
14 capacity to accept the sibling without adding teachers, staff, or classrooms
15 or exceeding the regulations and standards established by law.
16 (3) A present or future sibling of a student who continues
17 enrollment in the nonresident district and who enrolls in the nonresident
18 district under subdivision (c)(2) of this section may complete all remaining
19 school years at the nonresident district.
20
21 SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to
22 read as follows:
23 6-18-1905. Application for a transfer.
24 (a) If a student seeks to attend a school in a nonresident district,
25 the student's parent shall submit an application:
26 (1) To the nonresident district ~~with a copy to~~ ,which shall
27 notify the resident district of the filing of the application;
28 (2) On a form approved by the Department of Education; and
29 (3) Postmarked no later than ~~June~~ May 1 of the year in which the
30 student seeks to begin the fall semester at the nonresident district.
31 (b) A nonresident district that receives an application under
32 subsection (a) of this section shall, upon receipt of the application, place
33 a date and time stamp on the application that reflects the date and time the
34 nonresident district received the application.
35 (c) A nonresident district shall review and make a determination on
36 each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

~~subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:~~

~~(A) Declare an exemption under this section; or~~

~~(B) Resume participation after a period of exemption.~~

~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not *more than three percent (3%) of the* ~~*school district's three-quarter average daily membership for the*~~ *enrollment that exists in the school district as of October 15 of the immediately preceding school year.*

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

(C) A student eligible to transfer to a nonresident district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

(2) Annually by ~~June 1~~ *December 15*, the department shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to subdivision § (b)(1) of this section in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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A.C.A. § 6-18-1901

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A.C.A. § 6-18-1901 (Copy w/ Cite) Pages: **2**

A.C.A. § 6-18-1901

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*** Legislation is current through the 2014 Second Extraordinary Session ***
*** and updates received from the Arkansas Code Revision Commission ***
*** through December 12, 2014. ***

Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1901

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A.C.A. § 6-18-1902

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903

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*** and updates received from the Arkansas Code Revision Commission ***
*** through December 12, 2014. ***

Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1905

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
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Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

A.C.A. § 6-18-1908

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A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY	
Date and Time Received by Resident District:	Date and Time Received by Nonresident District:
Resident District LEA #:	Nonresident District LEA#:
Student's State Identification #:	
Application Accepted ☐	Rejected ☐
Reason for Rejection (If Applicable):	
Date Notification Sent to Parent/Guardian of Applicant:	
Date Notification Sent to Resident District :	

HEARING PROCEDURES

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

July 21, 2015

Cody and Brittany Martin
[redacted]
Vilonia, AR 72173

John Gray, Superintendent
Mayflower School District
7 Ashmore Drive
Mayflower, AR 72106

David Stephens, Superintendent
Vilonia School District
11 Eagle Street
Vilonia, AR 72173

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is scheduled to hear the above-referenced appeal(s) on **Thursday, August 6, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on Friday, July 24, 2015**.

The Arkansas State Board of Education has requested the parent, the non-resident district, and the resident district attend this meeting and be available for questions.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

Jennifer Davis

Jennifer Davis
Staff Attorney
Arkansas Department of Education
Four Capitol Mall, Room 301-A
Little Rock, AR 72201
(501) 682-4227
(501) 682-4249 (fax)
jennifer.davis@arkansas.gov

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

Check postmark

15-171 rec'd 7-13-15
MDGatty

RECEIVED
COMMISSIONER'S OFFICE
JUL 13 2015
DEPARTMENT OF EDUCATION

Arkansas Public School Choice

My name is Britany Martin, my children's names are B[redacted] and H[redacted] Salter. I submitted a school choice form the first day the application was available to fill out. B[redacted] & H[redacted] attended Mayflower School's last school year. Our physical address is [redacted] Vilonia, AR. Which is approx 8 miles from Vilonia Schools the Vilonia bus also stops on the corner of Allen & Beryl Rd which is right up our drive way. Mayflower school is 20+ miles, the bus stop were the kids have to catch the Mayflower bus is on the corner of Richie Rd and Jones Rd. That is 4.3 miles to the bus stop. They ride the Mayflower bus 1 hour and 10 min. On their 4.3 mile walk to the bus they pass

RECEIVED
ATTORNEY'S OFFICE
JUL 13 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

Dale Hoskins (234 Billy Goat Mtn Rd) a level 2 sex offender and Boyd Tuker (184 Billy Goat Mtn Rd) another level 2 sex offender. Not only is Vilonia school's closer but its safer for [redacted] + [redacted]. The Vilonia bus stop is right up our driveway. [redacted] has a IEP that was put into place last year. He has ADHD, ADD, ODD, and I would feel relieved if he was at a school that has great special ed teachers. Please approve my appeal to move my kids to Vilonia Schools.

Thank you for your time,

By Martin

[redacted]

Vilonia School District

Home of the Eagles

Dr. David Stephens, Superintendent

TELEPHONE 501-796-2113 • P.O. BOX 160 • VILONIA, ARKANSAS 72173

June 29, 2015

Dear Mr. & Mrs. Martin,

The school choice application you submitted for B[redacted] and H[redacted] for enrollment in the Vilonia School District has been denied due to capacity issues in grades 4, 5, and 6. The enrollment at each of those grade levels is at or above 90% of capacity.

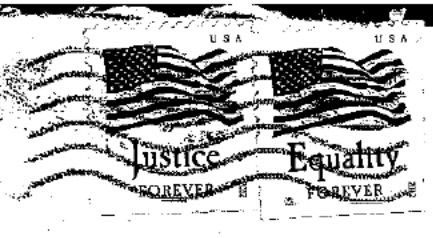
As noted in your original application, you have ten (10) days from the receipt of this notice in which to submit a written appeal of this decision to the State Board of Education.

Respectfully,

Dr. David Stephens, superintendent
Vilonia Public Schools

Martin
[redacted]
Vilonia AR 72173

LITTLE ROCK AR 72
10 JUL 2015 PM 3 L



Office of the Commissioner
four Captital Mall
Little Rock, AR 72201

Attn.
Arkansas Public
School Choice
Act Appeal

72201101304

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"

(Must Be Submitted to Non-Resident District)

APPLICANT INFORMATION

Student Name: B[redacted] Salter

Student Date of Birth [redacted] Gender Male ☑ Female ☐

Grade: ~~5th~~ 5th

Does the applicant require special needs or programs? Yes ☑ No ☐

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☑

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: Mayflower County Name: Faulkner

Address: 7 Ashmore St Mayflower AR 72106

Phone: 501 470 0387

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: Vilonia County Name: Faulkner

Address: 11 Eagle St. Vilonia AR 72173

Phone: 501-796 2940 501 796 2113

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015? no

PARENT OR GUARDIAN INFORMATION

Name: Britany Cody Martin Home Phone: [redacted]

Addres[redacted]rk Phone: [redacted]

Vilonia, AR

Parent/Guardian Signature: [signature] Date: 4-22-15

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of 2013 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY

Date and Time Received by Resident District:	Date and Time Received by Nonresident District: 4-22-15 2:08 p.m.
Resident District LEA #:	Nonresident District LEA#: 2307
Student's State Identification #:	
Application Accepted ☐	Rejected ☐
Reason for Rejection (If Applicable):	
Date Notification Sent to Parent/Guardian of Applicant:	
Date Notification Sent to Resident District :	

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"

(Must Be Submitted to Non-Resident District)

APPLICANT INFORMATION

Student Name: H[redacted] Salter

Student Date of Birth [redacted] Gender Male ☐ Female ☑

Grade: ~~Sec~~ 4th

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☑ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: Mayflower County Name: Faulkner

Address: 7 Ashmore St. Mayflower AR 72106

Phone: 501 470-0387

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: Vilonia County Name: Faulkner

Address: 11 Eagle St. Vilonia AR 72173

Phone: 501 796 2940 501 796 2113

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015? no

PARENT OR GUARDIAN INFORMATION

Name: Britany + Cody Martin Home Phone: [redacted]

Address [redacted] rk Phone: [redacted]

Parent/Guardian Signature: Date: 4-22-15

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY

Date and Time Received by Resident District:	Date and Time Received by Nonresident District: 4/22/2015 2:08 p.m.
Resident District LEA #:	Nonresident District LEA#: 2207
Student's State Identification #:	
Application Accepted ☐	Rejected ☐
Reason for Rejection (If Applicable):	
Date Notification Sent to Parent/Guardian of Applicant:	
Date Notification Sent to Resident District :	

RESPONSE

Subject: Re: Notice of Filing School Choice Appeal - Martin Family
Date: Tuesday, July 21, 2015 at 8:53:01 AM Central Daylight Time
From: David Stephens
To: Jennifer Davis (ADE)

Jennifer,

I denied the school choice application filed by Britany and Cody Martin on behalf of B[redacted] Salter (5th grade) and H[redacted] Salter (4th grade) based on lack of capacity. At the time of the consideration of the application, enrollment capacity of the 4th and 5th grade was at or above 90% capacity.

I spoke with Mr. Martin on the phone and told him that, on August 10, we will review our enrollment for those grades. If the enrollment capacity is below 90% in either or both grades, I will contact him to let him know that we have a spot for [redacted]

Respectfully,
David Stephens, superintendent
Vilonia School District

On Thu, Jul 16, 2015 at 9:22 AM, Jennifer Davis (ADE) <Jennifer.Davis@arkansas.gov> wrote:

> Superintendent Stephens:
>
> Please find attached a school choice appeal filed with the ADE by the Martin Family. The family appeals the decision of the Vilonia School District to deny school choice transfer from the Cabot School District. The applicable ADE rules state that a nonresident district must file any response to the appeal within ten (10) days of receipt of the appeal. You may send any response to the following address:
>
> Office of the Commissioner
> ATTN: Arkansas Public School Choice Act Appeals
> Four Capitol Mall
> Little Rock, Arkansas 72201
>
> I have enclosed a copy of the current ADE rules and the school choice statutes for your review. ADE staff will send all parties a formal notification letter once any response is received (or if the ten-day time period passes without a response from the nonresident district). Thank you for your attention to this matter.
>
> Respectfully,
>
> Thanks,
>
> Jennifer Davis
> Staff Attorney
> Arkansas Department of Education
> Four Capitol Mall, Room 301-A
> Little Rock, AR 72201
> (501) 682-4227
> (501) 682-4249 (fax)
> jennifer.davis@arkansas.gov

--

Dr. David Stephens
Superintendent
Vilonia Schools

"You will never reach your destination if you stop
and throw rocks at every dog that barks."
Winston Churchill

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ASSOCIATED DOCUMENTS

SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

1 (2)(A) A student who accepts a public school choice
2 transfer may return to his or her resident district during the school year.
3 (B) If a transferred student returns to his or her
4 resident district, the student's transfer is voided, and the student shall
5 reapply if the student seeks a future school choice transfer.
6 (c)(1) A transfer student attending a nonresident school under this
7 subchapter may complete all remaining school years at the nonresident
8 district.
9 (2) A present or future sibling of a student who continues
10 enrollment in the nonresident district under this subsection and applies for
11 a school choice transfer under § 6-18-1905 may enroll in ~~or continue~~
12 ~~enrollment in~~ the nonresident district ~~until the sibling of the transfer~~
13 ~~student completes his or her secondary education,~~ if the district has the
14 capacity to accept the sibling without adding teachers, staff, or classrooms
15 or exceeding the regulations and standards established by law.
16 (3) A present or future sibling of a student who continues
17 enrollment in the nonresident district and who enrolls in the nonresident
18 district under subdivision (c)(2) of this section may complete all remaining
19 school years at the nonresident district.
20
21 SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to
22 read as follows:
23 6-18-1905. Application for a transfer.
24 (a) If a student seeks to attend a school in a nonresident district,
25 the student's parent shall submit an application:
26 (1) To the nonresident district ~~with a copy to~~ ,which shall
27 notify the resident district of the filing of the application;
28 (2) On a form approved by the Department of Education; and
29 (3) Postmarked no later than ~~June~~ May 1 of the year in which the
30 student seeks to begin the fall semester at the nonresident district.
31 (b) A nonresident district that receives an application under
32 subsection (a) of this section shall, upon receipt of the application, place
33 a date and time stamp on the application that reflects the date and time the
34 nonresident district received the application.
35 (c) A nonresident district shall review and make a determination on
36 each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

~~subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:~~

~~(A) Declare an exemption under this section; or~~

~~(B) Resume participation after a period of exemption.~~

~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not *more than three percent (3%) of the* ~~*school district's three-quarter average daily membership for the*~~ *enrollment that exists in the school district as of October 15 of the immediately preceding school year.*

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

(C) A student eligible to transfer to a nonresident district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

(2) Annually by ~~June 1~~ *December 15*, the department shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to subdivision § (b)(1) of this section in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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A.C.A. § 6-18-1901

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1902

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A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1905

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A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

A.C.A. § 6-18-1908

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A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY	
Date and Time Received by Resident District:	Date and Time Received by Nonresident District:
Resident District LEA #:	Nonresident District LEA#:
Student's State Identification #:	
Application Accepted ☐	Rejected ☐
Reason for Rejection (If Applicable):	
Date Notification Sent to Parent/Guardian of Applicant:	
Date Notification Sent to Resident District :	

HEARING PROCEDURES

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

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8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

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~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

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10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

July 24, 2015

Marion Pearson
[redacted]
Rogers, AR 72756

Margaret Darr, Superintendent
Rogers School District
500 West Walnut Street
Rogers, AR 72756

Michael Poore, Superintendent
Bentonville School District
500 Tiger Blvd
Bentonville, AR 72712

Re: Appeal Under the Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is scheduled to hear the above-referenced appeal(s) on **Thursday, August 6, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.**

The Arkansas State Board of Education has requested the parent, the non-resident district, and the resident district attend this meeting and be available for questions.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by the Public School Choice Act and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act. You may find copies of these references on the Arkansas Department of Education School Choice Website:

http://www.arkansased.gov/divisions/public-school-accountability/equity-assistance/school-choice

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

Jennifer Davis
Staff Attorney
Arkansas Department of Education
Four Capitol Mall, Room 301-A
Little Rock, AR 72201
(501) 682-4227
(501) 682-4249 (fax)
jennifer.davis@arkansas.gov

APPEAL

RECEIVED
COMMISSIONER'S OFFICE

JUL 14 2015

July 8th, 2015

To Whom It May Concern,

DEPARTMENT OF EDUCATION

I am writing to request a hearing regarding the rejection of my daughter's School Choice application for her upcoming 2015-2016 kindergarten year. We are currently zoned to attend Frank Tillery Elementary in the Roger's district and I would like for her to be able to attend Cooper Elementary in the Bentonville district.

Educationally, after reviewing the report cards found on the Department of Education site, Cooper's test scores are higher, student growth is higher, their achievement indicators are higher in all grades and subjects, and their teacher to student ratio is higher.. Frank Tillery has a 50% higher free and reduced lunch rate than Cooper and it also has a 36% higher population of students with limited English proficiency.

Also, this will be my third year providing services (mental health) at Cooper Elementary. I am familiar with the staff, the expectations, and the school atmosphere. I have witnessed the superb job in which Cooper Elementary staff does with addressing the needs so all of their students, something that I haven't always observed in other school districts. It would also be beneficial for her to be on the same academic calendar as I am.

Lastly, I hope that you can appreciate the comfort that a parent experiences when they are sending their children into a learning environment in which they are familiar with the staff that their children will be interacting with, as well as the culture of the school.

I greatly appreciate your time regarding this mater,

Sincerely,

Marion Pearson, MS, LPC

Marion Pearson, MS, LPC
[redacted]

RECEIVED
ATTORNEY'S OFFICE

JUL 14 2015

DEPARTMENT OF EDUCATION
GENERAL DIVISION

BENTONVILLE PUBLIC SCHOOLS

June 26, 2015

Marion Pearson
[redacted]
Rogers, AR 72756

RE: Application for Transfer to Bentonville Public School District

Dear Ms. Pearson,
Thank you for your application for transfer to Bentonville Public School District. We appreciate your interest in our schools. On behalf of Superintendent Poore, I regret to inform you that we must deny your application for Crystle Pearson for the 2015-2016 school year due to lack of capacity within the requested grade level. A copy of Bentonville Public School District's policy for acceptance and denial of transfer applications is enclosed for your review.

Bentonville Public Schools is unable to accept your application for transfer at this time, as it lacks capacity due to capacity of kindergarten at 90% or greater of the maximum student population.

If you have additional questions, please do not hesitate to contact our office at 479-696-9569.

Sincerely,

Tanya Sharp
Executive Director of Student Services
Bentonville Public Schools

1000 SE 14th Street * Bentonville, AR 72712 * 479-696-9569 * Fax: 479-271-1123

Marion Pearson
[redacted]
Rogers AR
72756

NORTHWEST AR P&DF
AR 727 1 T
10 JUL 2015 PM

U.S. POSTAGE
$.49
FIRST-CLASS LETTER
72756
Date of sale
07/10/15
06 2S00
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SSK

FOLD HERE

Office of the Commissioner
ATTN: Arkansas Public School
Choice Act Appeals
Four Capitol Mall
Little Rock, AR
72201

722014 1019

Checked eSchool not pre-reg for Rogers 08/19

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2013"

(Must Be Submitted to Non-Resident and Resident Districts)

APPLICANT INFORMATION

Student Name: [redacted] Pearson

Student Date of Birth: [redacted] Gender Male ☐ Female ☑

Grade: Kindergarten

Does the applicant require special needs or programs? Yes ☐ No ☒

Is applicant currently under expulsion? Yes ☐ No ☒

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☒

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: Rogers County Name: Benton

Address: 500 W. Walnut Street

Phone: 479-636-3910

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: Bentonville County Name: Benton

Address: 1000 SE 14th Street

Phone: 479-696-9569

Does the applicant already have a sibling or step-sibling in attendance in this district?

No

PARENT OR GUARDIAN INFORMATION

Name: Marion Pearson

Home Phone: [redacted]

Address: [redacted]

Work Phone:

Rogers, AR 72754

Parent/Guardian Signature: Marion Pearson

Date: Jan 29, 2015

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district (with a copy to the resident district) or postmarked no later than June 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of 2013 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY

Date and Time Received by Resident District: Noon 6/15/15 Verified address through Utility bill 2/13/15 Stamp

Date and Time Received by Nonresident District: 2:00 PM RECEIVED FEB 13 2015 B'VILLE PUB SCH

Resident District LEA #: 04-05

Nonresident District LEA#: 0401

Student's State Identification #:

Application Accepted [ ] Rejected [ ]

Reason for Rejection (If Applicable):

Date Notification Sent to Parent/Guardian of Applicant:

Date Notification Sent to Resident District :

RESPONSE

BENTONVILLE PUBLIC SCHOOLS

July 24, 2015

Jennifer Davis
Office of Legal Services
Arkansas Department of Education
Four Capitol Mall
Room 404-A
Little Rock, AR 72201-1019

Ms. Davis,
Please find the attached documents which support the decision made by Bentonville Public Schools on June 26, 2015. Due to capacity within a particular grade, we are unable to grant the request for School Choice made by Marion Pearson on behalf of C[redacted] Pearson.

The attached documents are as follows:

- Bentonville Board of Education Policy S.2.6 regarding School Choice: The highlighted section indicates the "lack of capacity" as 90% or more of the seats at the grade level.
- Board of Education Resolution
- eSchool enrollment numbers by grade level for June 26, 2015
- Available seats and sections for grade level requested

At the time the School Choice decision was made, we were at 98% capacity for our kindergarten level. We have since added an additional kindergarten section and continue to be at 98% capacity which is well above the 90% capacity set by our Board of Education.

Bentonville Public Schools will be represented at the August 6, 2015 Arkansas State Board of Education meeting. Should you need additional information, please do not hesitate to contact my office at 479-696-9569.

Sincerely,

Tanya Sharp
Executive Director of Student Services
Bentonville Public Schools

1000 SE 14th Street * Bentonville, AR 72712 * 479-696-9569 * Fax: 479-271-1123

Sharp, Tanya

To: Mayhall, Stephanie (Missy)
Subject: RE: Report: Current Student Enrollment by Building and Grade

From: smayhall@bentonvillek12.org [mailto:smayhall@bentonvillek12.org]
Sent: Friday, June 26, 2015 6:00 AM
Subject: Report: Current Student Enrollment by Building and Grade

Current Student Enrollment by Building and Grade

	Apple Glen Elementary School	Ardis Ann Middle School	Bentonville High School	Bentonville High School ALE	Bright Field Middle School	Centerton Gamble Elementary School	Central Park Elementary School	Cooper Elementary School	Elm Tree Elementary School	Fulbright Junior High School	Lincoln Junior High School	Mary Jones Elementary School	Old High Middle School	R E Baker Elementary School	Ruth Barker Middle School	Sugar Creek Elementary School	Thomas Jefferson Elementary School	Washington Junior High School	Willowbrook Elementary School	Total
01	110					158	202	136	117			140		114		82	105		194	**1,358**
02	110					129	194	147	127			120		126		96	105		186	**1,340**
03	104					137	196	134	124			138		107		99	104		177	**1,320**
04	112					130	194	134	124			112		103		103	92		163	**1,267**
05		296			380								330		302					**1,308**
06		302			343								292		274					**1,211**
07										454	466							387		**1,307**
08										418	419							356		**1,193**
09			1,238																	**1,238**
10			1,191	12																**1,203**
11			1,108	30																**1,138**
12			987	35																**1,022**
GG			5																	**5**
KF	115					141	172	104	114			117		115		84	92		189	**1,243**
SS			4							3	1							2		**10**
Total	**551**	**598**	**4,533**	**77**	**723**	**695**	**958**	**655**	**606**	**875**	**886**	**627**	**622**	**565**	**576**	**464**	**498**	**745**	**909**	**16,163**

Code:	S.2.6
Date Issued:	01-19-04
Date Revised:	06-01-15

School Choice

I. Standard School Choice

The District shall advertise in appropriate print and broadcast media to inform students and parents in adjoining districts of the range of possible openings available under the School Choice program. The public pronouncements shall state the application deadline and the requirements and procedure for participation in the program. Such pronouncements shall be made in the spring, but in no case later than April first.

The student's parent shall submit a school choice application on a form approved by ADE to the non-resident district. The superintendent will consider all properly submitted applications for School Choice postmarked or hand delivered on or before May 1st prior to the fall semester the applicant would begin school in the District. Applications postmarked or hand delivered on or after May 2nd will not be accepted. When considering applications, priority will be given to applications from siblings (sibling is defined as two (2) or more children having a common parent in common by blood, adoption, marriage, or foster care) residing in the same residence or household of students already attending the District through school choice. The district shall date and time stamp all applications for school choice to transfer as they are received at the District's Student Services Center. It is the District's responsibility to send a copy of the application that includes the date and time stamp to the student's resident district.

The Superintendent or designee will consider all properly submitted applications for School Choice. By July 1, the Superintendent or designee shall notify the parent and the student's resident district, in writing, of the decision to accept or reject the application.

The Board of Directors will adopt a resolution containing the capacity standards for the District. The resolution will contain the acceptance determination criteria identified by academic program, class, grade level, and individual school. The District is not obligated to add any teachers, other staff, or classrooms to accommodate choice applications. The District may only deny a Standard School Choice application if the District has a lack of capacity by the District having reached ninety percent (90%) of the maximum student population in a program, class, grade level, or school building authorized by the capacity standards or other State/Federal law.

The approval of any application for a choice transfer into the District is potentially limited by the applicant's resident district's statutory limitation of losing no more than three percent (3%) of its past year's student enrollment due to Standard School Choice. As such, any District approval of a choice application prior to July 1 is provisional pending a determination that the resident district's three percent (3%) cap has not been reached.

The district shall approve all Standard School Choice applications requesting to transfer out of the district unless the approval would cause the District to a have a net enrollment loss (students transferring out minus those transferring in) of more than three percent (3%) of the average daily membership on October 15 of the immediately preceding year. By December 15 of each year, ADE shall determine and notify the District of the net number of allowable choice transfers. For the purpose of determining the three percent (3%) cap, siblings are counted as one student, and students are not counted if the student transfers from

a school or district in: Academic Distress under either A.C.A. § 6-15-430(c)(1) or A.C.A. § 6-18-227; or Facilities Distress under A.C.A. § 6-21-812. If, prior to July 1, the District receives sufficient copies of requests from other districts for its students to transfer to other districts to trigger the three percent (3%) cap, it shall notify each district the District received Standard School Choice applications from that it has tentatively reached the limitation cap. The District will use confirmations of approved choice applications from receiving districts to make a final determination of which applications it received that exceeded the limitation cap and notify each district that was the recipient of an application to that effect.

The District may reject an application for a transfer into the District under Standard School Choice due to a lack of capacity. However, the decision to accept or reject an application may not be based on the student's previous academic achievement, athletic or other extracurricular ability, English proficiency level, or previous disciplinary proceedings other than a current expulsion. An application may be provisionally rejected if it is for an opening that was included in the District's capacity resolution, but was provisionally filled by an earlier applicant. If the provisionally approved applicant subsequently does not enroll in the District, the provisionally rejected applicant could be provisionally approved and would have to meet the acceptance requirements to be eligible to enroll in the district.

Rejection of applications shall be in writing and shall state the reason(s) for the rejection. A student whose application was rejected may request a hearing before the State Board of Education to reconsider the application which must be done, in writing, to the State Board within ten (10) days of receiving the rejection letter from the District.

Any applications that are denied due to the student's resident district reaching the three percent (3%) limitation cap shall be given priority for a choice transfer the following year in the order that the District received the original applications.

The transfer student or their parents are responsible for all transportation to and from the nonresident school district.

Students admitted under this policy shall be entitled to continued enrollment until they graduate or are no longer eligible for enrollment in the District's schools. Any student admitted to this district under the provisions of this policy who chooses to return to his/her resident district during the school year voids the transfer and must reapply for a school choice admission if desiring to return to this district in the future.

Facilities Distress Choice Applications

There are a few exceptions from the provisions of the rest of this policy that govern choice transfers triggered by facilities distress. Any student attending a school district that has been identified as being in facilities distress may transfer under the provisions of this policy, but with the following four (4)differences.

- The receiving district cannot be in facilities distress;
- The transfer is only available for the duration of the time the student's resident district remains in distress;
- The student is not required to meet the June 1 application deadline; and
  The student's resident district is responsible for the cost of transporting the student to this District's

Opportunity School Choice

For the purposes of this section of the policy, a "lack of capacity" is defined as when the receiving school has reached the maximum student-to-teacher ratio allowed under federal or state law, the ADE 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 Opportunity School Choice, ninety-five percent (95%) or more of the seats at the grade level at the nonresident school are filled.

Unless there is a lack of capacity at the District's school or the transfer conflicts with the provisions of a federal desegregation order applicable to the District, a student who is enrolled in or assigned to a school classified by the ADE to be in academic distress is eligible to transfer to the school closest to the student's legal residence that is not in academic distress. The student's parent or guardian, or the student if over the age of eighteen (18), must successfully complete the necessary application process by July 30 preceding the initial year of desired enrollment.

Within thirty (30) days from receipt of an application from a student seeking admission under this section of the policy, the Superintendent shall notify in writing the parent or guardian, or the student if the student is over eighteen (18) years of age, whether the Opportunity School Choice application has been accepted or rejected. The notification shall be sent via First-Class Mail to the address on the application.

If the application is accepted, the notification letter shall state the deadline by which the student must enroll in the receiving school or the transfer will be null and void.

If the District rejects the application, the District shall state in the notification letter the specific reasons for the rejection. A parent or guardian, or the student if the student is over eighteen (18) years of age, may appeal the District's decision to deny the application to the State Board of Education. The appeal must be in writing to the State Board of Education via certified mail, return receipt requested, no later than ten (10) calendar days, excluding weekends and legal holidays, after the notice of rejection was received from the District.

A student's enrollment under Opportunity School Choice is irrevocable for the duration of the school year and is renewable until the student completes high school or is beyond the legal age of enrollment. This provision for continuing eligibility under Opportunity Choice does not negate the student's right to apply for transfer to a district other than the student's assigned school or resident district under the Standard School Choice provisions of this policy.

The District may, but is not obligated to provide transportation to and from the transferring district.

Transfers out of, or within, the District

If a District school or the District has been classified by the ADE as being in academic distress the District shall timely notify the parent, guardian, or student, if the student is over eighteen (18) years of age, as soon as practicable after the academic distress designation is made, of all options available under Opportunity Choice. The District shall offer the parent or guardian, or the student if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by the ADE as a public school or school district in academic distress.

Additionally, the District shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

Legal References; A.C.A. § 6-1-106

A.C.A. § 6-13-113
A.C.A. § 6-15-430(b)
A.C.A. § 6-18-227
A.C.A. § 6-18-510
A.C.A. § 6-18-1901 et seq.
A.C.A. § 6-21-812
ADE Rules Governing the Guidelines, Procedures and Enforcement of the Arkansas Opportunity Public School Choice Act

SCHOOL CHOICE CAPACITY RESOLUTION

Whereas:

- The Board of Directors of the Bentonville Public School District has approved by a vote of the Board, the following capacity resolution for school choice applicants for the 15-16 school-year under the provisions of policy S.2.6—SCHOOL CHOICE and applicable Arkansas law.

- Applicants, whose applications meet the provisions of policy S.2.6 - SCHOOL CHOICE, will be sent a provisional acceptance notification letter which will give instructions on the necessary steps and timelines to enroll in the District. Provisional acceptance shall be determined prior to July 1 with a final decision to be made by July 1 based on the district's available capacity for each academic program, class, grade level, and individual school.

- The following applications will not be accepted: (1) applications that are not postmarked or received on or before May 1, (2) applications from a student whose resident district has declared itself exempt due to an existing desegregation order, and (3) applications which, if accepted, would exceed the resident district's statutory limitation on student transfers out of its district.

- The District reserves to itself the ability to determine, based on an examination of student records obtained from the prior district, and other information, whether any student would require a different class, course or courses, program of instruction, or special services than originally applied for. If such an examination determines that capacity has been reached in the appropriate class, course or program of instruction, or that additional staff would have to be hired for the applicant, the District shall rescind the original provisional acceptance letter and deny the Choice transfer for that student.

- The District reserves to itself the ability to decline to accept under school choice any student whose acceptance would require the District to add additional staff, for any reason.

THEREFORE, let it be resolved that these shall constitute the School Choice openings at the beginning of the School Choice enrollment period for the school-year 15-16.

_____	_____
Board President	Board Secretary
_____	_____
Date	Date

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06-26-15

		AG			CE			CG			CP			ET		
Grade		Sections	Total seats	Enrollment	Sections	Total seats	Enrollment	Sections	Total seats	Enrollment	Sections	Total seats	Enrollment	Sections	Total seats	Enrollment
K	20	5	100	115	6	120	104	7	140	141	8	160	172	6	120	114
1	25	4	100	110	6	150	136	6	150	158	7	175	202	5	125	117
2	25	4	100	110	6	150	147	5	125	129	7	175	194	5	125	127
3	25	4	100	104	6	150	134	5	125	137	7	175	196	5	125	124
4	28	4	112	112	5	140	134	5	140	130	6	168	194	5	140	124
TOTAL		21	512	551	29	710	655	28	680	695	35	853	958	26	635	606

K-4	6528
5-6	2519
7-8	2506
9-12	4610
Total	16163

		MMJ			REB			SC			TJ			WB			
Grade		Sections	Total seats	Enrollment	Sections	Total seats	Enrollment	Sections	Total seats	Enrollment	Sections	Total seats	Enrollment	Sections	Total seats	Enrollment	Enroll Total
K	20	7	140	117	6	120	115	5	100	84	6	120	92	8	160	189	1243
1	25	6	150	140	5	125	114	5	125	82	4	100	105	7	175	194	1358
2	25	5	125	120	5	125	126	5	125	96	4	100	105	7	175	186	1340
3	25	6	150	138	4	100	107	5	125	99	4	100	104	7	175	177	1320
4	28	4	112	112	4	112	103	4	112	103	4	112	92	6	168	163	1267
TOTAL		28	677	627	24	582	565	24	587	464	22	532	498	35	853	909	6528

		AAMS			BFMS			OHMS			RBMS			
Grade		Sections	Total seats	Enrollment	Sections	Total seats	Enrollment	Sections	Total seats	Enrollment	Sections	Total seats	Enrollment	TOTAL
5	28	11	308	296	12	336	380	12	336	330	10	280	302	1308
6	28	11	308	302	12	336	343	11	308	292	11	308	274	1211
TOTAL		22	616	598	24	672	723	23	644	622	21	588	576	2519

FJHS	875
LJHS	886
WJHS	745
	2506
BHS	4610

Available Seats		
	K	1280
	1	1375
	2	1325
	3	1325
	4	1316
	Total	6621

Available Seats		
	5	1260
	6	1260
	Total	2520

ASSOCIATED DOCUMENTS

SCHOOL CHOICE STATUTES AND ACTS

State of Arkansas *As Engrossed: S2/9/15 S2/17/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*
By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

For An Act To Be Entitled

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

<u>6-13-113. School district desegregation orders — Orders.</u>

<u>(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.</u>

<u>(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:</u>

1 (1) A copy of the desegregation order or desegregation-related
2 order;
3 (2) The case heading and case number of each court case in which
4 the order was entered;
5 (3) The name and location of each court that maintains
6 jurisdiction over the order; and
7 (4) A description of the school choice student transfer
8 desegregation obligations, if any, that the school district is subject to,
9 related to the order.
10 (c) A school district that is released from court supervision related
11 to a desegregation order or desegregation-related order shall promptly notify
12 the department.
13 (d) A school district that fails to meet the requirements of this
14 section is in violation of the Standards for Accreditation of Arkansas Public
15 Schools and School Districts.
16 (e) The department shall post on the department's website all written
17 notifications received as required by this section.
18
19 SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School
20 Choice Act of 2013, is amended to read as follows:
21 (a) This subchapter shall be known and may be cited as the "Public
22 School Choice Act of ~~2013~~ 2015".
23
24 SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of
25 transfer student, is amended to read as follows:
26 (4) "Transfer student" means a public school student in kindergarten
27 through grade twelve (12) who transfers to a nonresident district through a
28 public school choice option under this subchapter.
29
30 SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public
31 school choice program, are amended to read as follows:
32 (a) A public school choice program is established to enable a student
33 in kindergarten through grade twelve (12) to attend a school in a nonresident
34 district, subject to the limitations under § 6-18-1906.
35 (b) Each school district shall participate in a public school choice
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,
2 staff, or classrooms or in any way to exceed the requirements and standards
3 established by existing law.
4 (d)(1) The board of directors of a public school district shall adopt
5 by resolution specific standards for acceptance and rejection of applications
6 under this subchapter.
7 (2) The standards:
8 (A) May include without limitation the capacity of a
9 program, class, grade level, or school building;
10 (B) May include a claim of a lack of capacity by a school
11 district only if the school district has reached at least ninety percent
12 (90%) of the maximum authorized student population in a program, class, grade
13 level, or school building;
14 (C) Shall include a statement that priority will be given
15 to an applicant who has a sibling or stepsibling who:
16 (i) Resides in the same household; and
17 (ii) Is already enrolled in the nonresident district
18 by choice; and
19 ~~(C)~~ (D) Shall not include an applicant's:
20 (i) Academic achievement;
21 (ii) Athletic or other extracurricular ability;
22 (iii) English proficiency level; or
23 (iv) Previous disciplinary proceedings, except that
24 an expulsion from another district may be included under § 6-18-510.
25 (3) A school district receiving transfers under this subchapter
26 shall not discriminate on the basis of gender, national origin, race,
27 ethnicity, religion, or disability.
28
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general
30 provisions, are amended to read as follows:
31 (a) The transfer of a student under the Arkansas Public School Choice
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,
33 is not voided by this subchapter and shall be treated as a transfer under
34 this subchapter.
35 (b)(1) A student may accept only one (1) school choice transfer per
36 school year.

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection and applies for a school choice transfer under § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(3) A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under subdivision (c)(2) of this section may complete all remaining school years at the nonresident district.

SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to read as follows:

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district ~~with a copy to~~ ,which shall notify the resident district of the filing of the application;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) A nonresident district that receives an application under subsection (a) of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

(c) A nonresident district shall review and make a determination on each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

(e)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter~~:~~

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null~~; and~~

~~(B) Instructions for the renewal procedures established by the nonresident district~~.

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter 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.

(2) 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 with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

1 ~~subsection is irrevocable for one (1) year from the date the school district~~
2 ~~notifies the Department of Education of the declaration of exemption.~~
3 ~~(B) After each year of exemption, the board of directors~~
4 ~~may elect to participate in public school choice under this section if the~~
5 ~~school district's participation does not conflict with the school district's~~
6 ~~federal court-ordered desegregation program.~~
7 ~~(3) A school district shall notify the department by April 1 if~~
8 ~~in the next school year the school district intends to:~~
9 ~~(A) Declare an exemption under this section; or~~
10 ~~(B) Resume participation after a period of exemption.~~
11 ~~(c)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit
12 on school choice transfers each school year from a school district, less any
13 school choice transfers into the school district, under this section of not
14 *more than three percent (3%) of the* ~~*school district's three-quarter average*~~
15 ~~*daily membership for the*~~ *enrollment that exists in the school district as of*
16 *October 15 of the immediately preceding school year.*
17 (B) For the purpose of determining the percentage of school
18 choice transfers under this subsection, siblings who are counted in the
19 numerator as transfer students shall count as one (1) student~~, and siblings~~
20 ~~who are counted in the denominator as part of the average daily membership~~
21 ~~shall count as one (1) student~~.
22 (C) A student eligible to transfer to a nonresident
23 district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count
24 against the cap of three percent (3%) of the resident or nonresident
25 district.
26 (2) Annually by ~~June 1~~ *December 15*, the department shall report
27 to each school district the net maximum number of school choice transfers for
28 the ~~current~~ next school year.
29 (3) If a student is unable to transfer due to the limits under
30 this subsection, the resident district shall give the student priority for a
31 transfer in the ~~following~~ first school year in which the district is no
32 longer subject to subdivision § (b)(1) of this section in the order that the
33 resident district receives notices of applications under § 6-18-1905, as
34 evidenced by a notation made by the district on the applications indicating
35 date and time of receipt.
36

SECTION *7*. Arkansas Code § 6-18-1908 is amended to read as follows:

6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION *8*. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark

APPROVED: 03/20/2015

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A.C.A. § 6-18-1901

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A.C.A. § 6-18-1901

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

6-18-1901. Title -- Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1901

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A.C.A. § 6-18-1902

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1902 (2015)

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1903 (2015)

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter 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.

(d) (1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1903

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1904 (2015)

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b) (1) A student may accept only one (1) school choice transfer per school year.

(2) (A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c) (1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d) (1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1904

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A.C.A. § 6-18-1905

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1905 (2015)

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1906

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*** through December 12, 2014. ***

Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1906 (2015)

6-18-1906. Limitations.

(a) If the provisions of this subchapter 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.

(b) (1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2) (A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c) (1) (A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily

membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1906

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A.C.A. § 6-18-1907

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Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1907 (2015)

6-18-1907. Rules -- Appeal -- Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b) (1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2) (A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c) (1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

HISTORY: Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1908

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*** through December 12, 2014. ***

Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1908 (2015)

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

HISTORY: Acts 2013, No. 1227, § 6.

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SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION EMERGENCY RULES GOVERNING THE PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015

~~**September 2013**~~

April 9, 2015

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of ~~2013~~ 2015.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of ~~2013~~ 2015.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by ~~Act 1227 of 2013~~ Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 560 of 2015, and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.

3.00 DEFINITIONS

As used in these rules:

3.01 "Nonresident District" means a school district other than a student's resident district;

3.02 "Parent" means a student's parent, guardian, or other person having custody or care of the student;

3.03 "Resident district" means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;

3.04 "Sibling" means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and

3.05 "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

4.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules.

4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

4.03 These 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.

4.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:

4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;

4.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

4.04.~~2~~3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

4.04.~~2~~3.1 Resides in the same household; and

4.04.~~2~~3.2 Is already enrolled in the nonresident district by choice.

4.04.~~3~~4 Shall not include an applicant's:

4.04.~~3~~4.1 Academic achievement;

4.04.~~3~~4.2 Athletic or other extracurricular ability;

4.04.~~3~~4.3 English proficiency level; or

4.04.~~3~~4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.

4.04.~~4~~5 A school district receiving transfers under the Public School Choice Act of 2013 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

4.05 A nonresident district shall:

4.05.1 Accept credits toward graduation that were awarded by another district; and

4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

4.06 The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

4.06.1 Availability of the program;

4.06.2 Application deadline; and

4.06.3 Requirements and procedure for nonresident students to participate in the program.

5.00 GENERAL PROVISIONS

5.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

5.02 A student may accept only one (1) school choice transfer per school year.

5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

5.02.2 If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

5.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education,~~ if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under

Section 5.03 of these rules may complete all remaining years at the nonresident district.

5.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

5.04.2 The State Board of Education may resolve disputes concerning transportation arising under Section 5.04 of these rules.

5.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

6.00 APPLICATION FOR TRANSFER

6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

6.01.1 To the nonresident district ~~with a copy to~~ , which shall notify the resident district of the filing of the application;

6.01.2 On the form that is attached to these rules as Attachment 1; and

6.01.3 Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.

6.0~~2~~5 By ~~August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, the superintendent of the nonresident district shall notify the parent

and the resident district in writing as to whether the student's application has been accepted or rejected. ~~The notification shall be sent via First-Class Mail to the address on the application.~~

6.0~~2~~5.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

6.0~~2~~5.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~:~~

~~6.02.2.1 A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and~~

~~6.02.2.2 Instructions for the renewal procedures established by the nonresident district.~~

7.00 LIMITATIONS

7.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules 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.

7.01.1 If a school district claims a conflict under Section 7.01 of these rules, 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 with the interdistrict school choice provisions of this subchapter.

7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

~~7.02 A school district annually may declare an exemption under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~7.02.1 An exemption declared by a board of directors under Section 7.02 of these rules is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~7.02.2 After each year of exemption, the board of directors may elect to participate in public school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.~~

~~7.02.3 A school district shall notify the Department of Education by April 1 if in the next school year the school district intends to:~~

~~7.02.3.1 Declare an exemption under Section 7.02 of these rules; or~~

~~7.02.3.2 Resume participation after a period of exemption.~~

~~7.02.3.3 A school district shall provide the notifications under Section 7.02.3.1 or 7.02.3.2 to:~~

~~Office of the Commissioner~~
~~ATTN: Arkansas Public School Choice Act~~
~~Four Capitol Mall~~
~~Little Rock, AR 72201~~

7.0~~3~~2 There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 15 of the ~~school district's three-quarter average daily membership for the~~ immediately preceding school year.

7.0~~3~~2.1 For the purpose of determining the percentage of school choice transfers under Section 7.0~~3~~2 of these rules, siblings who are counted in the numerator as transfer students shall count as one (1) student~~, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student~~.

7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-530(c)(1), 6-18-227, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

7.0~~3~~2.~~2~~3 Annually by ~~June 1~~ December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

7.0~~3~~2.~~3~~4 If a student is unable to transfer due to the limits under Section 7.0~~3~~2 of these rules, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

8.00 APPEAL, DATA COLLECTION AND REPORTING

8.01 A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

8.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.

8.01.3 In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

8.01.4 The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.

8.01.5 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

8.01.6 The nonresident district may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days

after the nonresident district receives the student or parent's appeal. The response of the nonresident district shall be mailed to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act Appeals
Four Capitol Mall
Little Rock, AR 72201

8.01.7 Contemporaneously with the filing of its response with the Office of the Commissioner, the nonresident district must also mail a copy of the response to the student or student's parent.

8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

8.02 The Department of Education shall collect data from school districts on the number of applications for student transfers under Section 8.00 of these rules and study the effects of school choice transfers under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

8.03 Annually by October 1, the Department of Education shall report its findings from the study of the data under Section 8.02 of these rules to the Senate Committee on Education and the House Committee on Education.

~~**9.00 EFFECTIVE DATE**~~

~~The provisions of the Arkansas Public School Choice Act of 2013 and these rules shall remain in effect until July 1, 2015.~~

~~10~~9.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:

~~10~~9.01 A staff member of the Arkansas Department of Education shall introduce the agenda item.

~~10~~9.02 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.

~~10~~9.03 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their opening statements.

~~10~~9.04 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. The Chairperson of the State Board may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

~~10~~9.05 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration or deposition.

~~10~~9.06 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

~~10~~9.07 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1,2,3).

~~10~~9.08 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).

~~10~~9.09 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

~~10~~9.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

~~10~~9.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.

10.00 EMERGENCY CLAUSE

10.01 WHEREAS, Act 560 of 2015 contained an emergency clause and became effective on March 20, 2015; and

10.02 WHEREAS, Ark. Code Ann. § 6-18-1907 authorizes the State Board of Education to promulgate rules to implement the Public School Choice Act; and

10.03 WHEREAS, these rules are immediately necessary to achieve the purposes of Act 560 of 2015 for the 2015-2016 school year;

10.04 THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, parents and school districts will result without the immediate promulgation of these rules.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT "ARKANSAS PUBLIC SCHOOL CHOICE ACT OF ~~2013~~ 2015"
(Must Be Submitted to Non-Resident ~~and Resident~~ Districts)

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL DISTRICT OF APPLICANT

District Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District Name: County Name:

Address:

Phone:

Does the applicant already have a sibling or step-sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015?

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district ~~(with a copy to the resident district)~~ or postmarked no later than ~~June~~ May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1905 and the Arkansas Department of Education Rules Governing the Public School Choice Act of ~~2013~~ 2015 for specific procedures on how to file such an appeal).

DISTRICT USE ONLY	
Date and Time Received by Resident District:	Date and Time Received by Nonresident District:
Resident District LEA #:	Nonresident District LEA#:
Student's State Identification #:	
Application Accepted ☐	Rejected ☐
Reason for Rejection (If Applicable):	
Date Notification Sent to Parent/Guardian of Applicant:	
Date Notification Sent to Resident District :	

HEARING PROCEDURES

Board of Education no later than ten (10) days after receiving the appealing party's written appeal.

7.03.1 Any response from the nonresident district should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.03.2 Contemporaneously with the filing of the written response with the Office of the Commissioner, the nonresident district must also mail a copy of the written response to the appealing party.

7.03.3 If the appealing party did not request a hearing before the State Board of Education, the nonresident district may request a hearing in its response.

7.04 If a hearing is requested by either party, the State Board of Education shall schedule the hearing for the next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.05 If no hearing is requested by either party, the State Board of Education shall consider the appeal during its next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.06 State Board of Education Hearing Procedures

7.06.1 A staff member of the Department of Education shall introduce the agenda item.

7.06.2 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board of Education.

7.06.3 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.

7.06.4 Each party will be given twenty (20) minutes to present their cases, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

7.06.5 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board of Education as a witness during the hearing. The

State Board of Education may accept testimony by affidavit, declaration, or deposition.

7.06.6 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

7.06.7 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1, 2, 3).

7.06.8 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A, B, C).

7.06.9 The nonresident district shall have the burden of proof in proving the basis for the denial of the transfer.

7.06.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

7.06.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board of Education shall provide a written decision to the Department of Education, the appealing party, and the nonresident district within fourteen (14) calendar days of announcing its decision under this section.

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

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Fayetteville

Alice Mahony
El Dorado

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Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

July 21, 2015

Ms. Pam Wooldridge
[redacted]
Little Rock, AR 72209

Dr. Frederick L. Fields
Little Rock School District
501 Sherman Street
Little Rock, AR 72202-2451

Re: Appeal Under the Opportunity Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is scheduled to hear the above-referenced appeal(s) on **Thursday, August 6, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on Friday, July 24, 2015**.

The Arkansas State Board of Education has requested the parent and the district attend this meeting and be available for questions.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by Ark. Code Ann. § 6-18-227 and the Arkansas Department of Education Rules Governing the Opportunity Public School Choice Act. You may find a copy of the applicable rules here:

http://www.arkansased.gov/public/userfiles/rules/Current/Opportunity_School_Choice_Rules_Final_September_2013.pdf

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

Jennifer Davis
Staff Attorney
Arkansas Department of Education
Four Capitol Mall, Room 301-A
Little Rock, AR 72201
(501) 682-4227
(501) 682-4249 (fax)
jennifer.davis@arkansas.gov

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

RECEIVED
COMMISSIONER'S OFFICE

MAY 20 2015

DEPARTMENT OF EDUCATION

May 14, 2015

The Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Court Mall
Little Rock, AR 72201

To whom it may concern:

My daughter's name is A[redacted] Wooldridge, #[redacted] and she is currently assigned to McClellan High School for 9th grade. The first day we were able to file for the AOSC I was at the office requesting her school be changed to Parkview. I had already gone to the office back in March to request the change on an OERF for next year but I was told that the AOSC would take precedent over that request. I know we were #62 in line and find it hard to believe that all those students requested a transfer to Parkview. I actually know that the person in front of us requested a transfer to Bryant. My daughter has already been at Cloverdale for 3 years and it along with McClellan are on the list of schools. Could you please take a look at all the paperwork we have filed concerning her transfer? Thank you for your assistance.

Sincerely,

Pam Wooldridge
[redacted]
Little Rock, AR 72209
[redacted]

LITTLE ROCK SCHOOL DISTRICT
STUDENT REGISTRATION OFFICE
501 SHERMAN STREET
LITTLE ROCK, AR 72202

May 12, 2015

TO THE PARENT OF:
A[redacted] Wooldridge 015
[redacted]
Little Rock, AR 72209

ID#: [redacted]
Assigned School: Mc Clellan Magnet High School
Grade(2015-16): 09*

Dear Parent:

Thank you for submitting your Arkansas Opportunity School Choice application to the Little Rock School District. I regret to inform you the school selected does not have any available seats at this time. Therefore, your child will remain at their attendance zone school. You will need to report to your assigned school for Check-In, August 3-4, 2015.

You have 10 days to appeal this decision. You may contact:

The Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, AR 72201

While we were not able to grant your choice application at this time, we would like to assure you the Little Rock School District is committed to providing a quality and equitable education at all of our schools. We solicit and look forward to your continued support and involvement in the educational process of your child.

Sincerely,

Dr. Frederick L. Fields, Senior Director of Student Services/SATS

ATTACHMENT 1 #62

RECEIVED
MAY 01 2015
By AC

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION

Student Name: A[redacted] Michelle Wooldridge

Student Date of Birth: [redacted] Gender Male ☐ Female ☑

Grade: 8th

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☑

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: LRSD McClellan High School County Name: Pulaski

Address: Geyer Springs

Phone:

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District and School Name: LRSD Parkview High School County Name: Pulaski

Address: Barrow Road

Phone:

RESPONSE

LITTLE ROCK SCHOOL DISTRICT
501 SHERMAN STREET
LITTLE ROCK, AR 72202

OFFICE OF STUDENT SERVICES
Dr. Frederick Fields

Phone: (501) 447-2950
E-Mail: frederick.fields@lrsd.org

Dear Attorney Davis,

Distressed applications are reviewed on a first come, first serve Basis. A[redacted] Wooldridges' Distressed application was submitted on May 1, 2015, at 3:32 p.m. Her application number was #62 for Parkview High School.

However, we had limited seats to offer based on our enrollment. Therefore, her application was reviewed and denied based on lack of seat availability.

If you need any additional information, please feel free to contact me at (501) 447-2950.

Sincerely,

Frederick L. Fields, ED.D
06/09/2015

SCHOOL DISTRESSED LOG

#	DATE	TIME	STUDENT NAME	PARENT NAME	CONTACT NUMBER	EMAIL ADDRESS	CONFIRM EMAIL ADDRESS	ASSIGNED SCHOOL	REQUESTED SCHOOL
61	5/1/15	3:26p	[redacted]					McClellan	Bryant
62	5/1/15	3:32pm	A[redacted] Wooldridge	Pam Wooldridge	[redacted]			McClellan	Parkview
63	5/1/15	3:41	[redacted]					Cloverdale	Pulaski Heights
64	5/4/15	9:02	[redacted]					Hall High	Parkview
65	5/4/15	9:05	[redacted]					McClellan	Parkview
66	5/4	9:35	[redacted]					McClellan	Central
67	5/4	9:35	[redacted]					McClellan	Central
68	5/4	9:55	[redacted]					J. A. Fair	Central
69	5/4	10:02	[redacted]					McClellan	Central
70	5/4	10:04	[redacted]					McClellan	Central
71	5/4	10:31	[redacted]					HENDERSON	FORREST
72	5/4	10:38	[redacted]					HALL	Parkview
73	5/4	10:40	[redacted]					Brady	Mann Magnet
74	5/4	11:15	[redacted]					Baseline	MLK
75	5/4	11:40	[redacted]					Mail Hall	Central

ATTACHMENT 1 #62

RECEIVED
MAY 01 2015
By FC

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION

Stu[redacted] Michelle Wooldridge [redacted]

Student Dat[redacted] Gender Male ☐ Female ☑

Grade: 8th

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☑

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: LRSD McClellan High School County Name: (Ng) Pulaski

Address: Geyer Springs

Phone:

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District and School Name: LRSD Parkview High School County Name: Pulaski

Address: Barrow Road

Phone:

ATTACHMENT 1

PARENT/GUARDIAN INFORMATION	
Name: Pamela Wooldridge	Home Phone: [redacted]
Address: [redacted]	Work Phone: [redacted]
Little Rock AR 72209	
Parent/Guardian Signature: [signature]	Date: 5/1/15

Note 1: The race or ethnicity of a student shall not be used to deny the student to attend a school district of choice under the Arkansas Opportunity School Choice Act. This information is gathered for district reporting purposes only.

Note 2: Pursuant to Ark. Code Ann. § 6-18-227, reviewers of this application are hereby notified that a transfer under the Arkansas Opportunity School Choice Act shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or as otherwise provided by law.

Note 3: A school district shall not deny a student the ability to attend school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice as defined by Arkansas law and Arkansas Department of Education rules.

Note 4: Pursuant to Ark. Code Ann. § 6-18-227, a student may only transfer from a public school or school district that has been classified as a public school or school district in academic distress.

DISTRICT USE ONLY	
Date and Time Received by Nonresident District:	
Resident District LEA #: LITTLE ROCK SCHOOL DISTRICT	Nonresident District LEA#:
Resident School LEA#: 600 1000	Nonresident School LEA#:
Student's State Identification #: [redacted]	
Application Accepted [ ]	Rejected [✓]
Reason for Rejection (If Applicable): Lack of space	
Date Notification Sent to Parent/Guardian of Applicant:	

ASSOCIATED DOCUMENTS

OPPORTUNITY SCHOOL CHOICE STATUTES AND ACTS

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1 of 1
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A.C.A. § 6-18-227 (Copy w/ Cite) Pages: **6**

A.C.A. § 6-18-227

Arkansas Code of 1987 Annotated Official Edition
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*** Legislation is current through the 2014 Fiscal Session and updates ***
*** received from the Arkansas Code Revision Commission through ***
*** July 2, 2014. ***

Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 2 -- Attendance

A.C.A. § 6-18-227 (2014)

6-18-227. Arkansas Opportunity Public School Choice Act of 2004.

(a) (1) This section may be referred to and cited as the "Arkansas Opportunity Public School Choice Act of 2004".

(2) (A) The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a technical education, or the world of work.

(B) The General Assembly:

(i) Recognizes that the Arkansas Constitution, as interpreted by the Supreme Court in Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002), makes education a paramount duty of the state;

(ii) Finds that the Arkansas Constitution requires the state to provide an adequate education;

(iii) Further finds that a student should not be compelled against the wishes of the parent, guardian, or the student, if the student is over eighteen (18) years of age, to remain in a public school or school district classified by the State Board of Education as a school or school district in academic distress under § 6-15-428; and

(iv) Shall make available a public school choice option in order to give a child the opportunity to attend a public school or school district not in academic distress.

(3) The General Assembly further finds that giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools, since teachers, administrators, and school district board members will have added incentives to satisfy the educational needs of the students who reside in the district.

(4) A public school choice program is hereby established to enable any student to transfer from a public school or school district classified by the state board as a public school or school district in academic distress to another public school or school district in the state that is not in academic distress, subject to the restrictions contained in this section.

(b) (1) Upon the request of a parent, guardian, or the student, if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school under this section if:

(A) The resident public school or school district has been classified by the state board as a public school or school district in academic distress; and

(B) The parent, guardian, or the student, if the student is over eighteen (18) years of age, has notified the Department of Education and both the sending and receiving school districts of the request for a transfer no later than July 30 of the first year in which the student intends to transfer.

(2) (A) (i) For the purposes of continuity of educational choice, the transfer shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or the parent, guardian, or the student, if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

(ii) A transfer under this section is effective at the beginning of the next academic year.

(B) Application for the opportunity public school choice option shall be provided by the department, shall contain a notice that a transfer under this subsection shall operate as an irrevocable choice for at least one (1) entire school year, and shall remain in force until the student completes high school as provided in this subsection except as otherwise provided by law.

(3) (A) For each student enrolled in or assigned to a public school or school district that has been classified by the state board as a public school or school district in academic distress, a school district shall:

(i) Timely notify the parent, guardian, or the student, if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available under this section; and

(ii) (a) Offer the parent, guardian, or the student, if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by the state board as a public school or school district in academic distress.

(b) The opportunity to continue attending the public school or school district that is not classified as a public school or school district in academic distress shall remain in force until the student graduates from high school.

(B) (i) The parent or guardian of a student enrolled in or assigned to a public school or school district that has been classified by the state board as a public school or school district in academic distress may choose as an alternative to enroll the student in a legally allowable public school or school district that is not classified as a public school or school district in academic distress and that is nearest to the student's legal residence.

(ii) That school or school district shall accept the student and report the student for purposes of the funding under applicable state law.

(C) (i) Students with disabilities who are eligible to receive services from the school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, and who participate in the public school choice program remain eligible to receive services from the school district as provided by federal or state law.

(ii) Any funding for the student shall be transferred to the public school or school district to which the student transfers.

(c) (1) (A) The receiving public school or school district may transport students to and from the transferring public school or school district, and the cost of transporting students shall be the responsibility of the transferring public school or school district except as provided under subdivisions (c)(1)(B) and (c)(2) of this section.

(B) A transferring public school or school district shall not be required to spend more than four hundred dollars ($400) per student per school year for transportation required under subdivision (c)(1)(A) of this section.

(2) Upon the transferring public school's or school district's removal from classification as a public school or school district in academic distress, the transportation costs shall no longer be the responsibility of the transferring public school or school district, and the student's transportation and the costs of the transportation shall be the responsibility of the parent or guardian or of the receiving public school or school district if the receiving public school or school district agrees to bear the transportation costs.

(d) (1) (A) Each school district board of directors shall offer the opportunity public school choice option within the public schools.

(B) The opportunity public school choice option shall be offered in addition to other existing choice programs.

(2) (A) (i) A school district shall not deny a student the ability to attend a school in the student's school district of choice under this section unless there is a lack of capacity at the school in the student's school district of choice.

(ii) 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.

(B) The race or ethnicity of a student shall not be used to deny a student the ability to attend a school in the student's school district of choice under this section.

(3) A student or the student's parent or guardian may appeal a school district's decision to deny admission to a school in a student's school district of choice due to lack of capacity to the State Board of Education after the student or the student's parent or guardian receives a written notice from the school district of choice that admission has been denied.

(4) The department shall promulgate rules governing the use of school capacity as a basis for denying admission under this section.

(e) (1) The provisions of this section and all student choice options created in this section shall comply with § 6-18-206(d) [repealed], (e) [repealed], and (i) [repealed] and shall not be subject to any other limitation or restriction provided by law.

(2) If any part of this section conflicts with the provisions of a federal desegregation court order applicable to a school district, the provisions of the federal desegregation court order shall govern.

(f) The department shall develop an annual report on the status of school choice and deliver the report to the state board, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.

(g) Each school district board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to rules adopted by the state board.

(h) (1) A receiving district shall accept credits toward graduation that were awarded by another district.

(2) The receiving district shall award a diploma to a nonresident student if the student meets the receiving district's graduation requirements.

(i) For purposes of determining a school district's state funding, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.

(j) (1) All school districts shall report to the department on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.

(2) The reports may be on those forms that are prescribed by the department, or the data may be submitted electronically by the district using a format authorized by the department.

(3) The department may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the department so long as thirty (30) calendar days are given between the request for the information and the published deadline.

(4) A copy of the report shall be provided to the House Committee on Education and the Senate Committee on Education.

(k) (1) Unless excused by the school for illness or other good cause:

(A) Any student participating in the opportunity public school choice option shall remain in attendance throughout the school year and shall comply fully with the school's code of conduct; and

(B) The parent or guardian of each student participating in the opportunity public school choice option shall comply fully with the receiving public school's parental involvement requirements.

(2) A participant who fails to comply with this section shall forfeit the opportunity public school choice option.

(l) (1) The maximum opportunity public school choice funds granted for an eligible student shall be calculated based on applicable state law.

(2) (A) The receiving school district shall report all students who transfer from another public school under the public school choice program.

(B) The students attending public schools pursuant to the opportunity public school choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.

(3) The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

(m) The state board shall adopt any rules necessary for the implementation of this section pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(n) A district under the public school choice program shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2003 (2nd Ex. Sess.), No. 35, § 7; 2005, No. 2121, § 22; 2011, No. 1124, §§ 1, 2; 2011, No. 1147, § 1; 2013, No. 600, §§ 7-12; 2013, No. 1138, § 45; 2013, No. 1227, § 4; 2013, No. 1429, § 11.

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OPPORTUNITY SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT
September 2013

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Rules Governing the Arkansas Opportunity Public School Choice Act.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Arkansas Opportunity Public School Choice Act as amended.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by Ark. Code Ann. §§ 6-11-105, 6-18-227, 6-15-430, 25-15-201 et seq., and Acts 600, 1227 and 1429 of 2013.

3.00 DEFINITIONS

As used in these rules:

3.01 "Department" means the Arkansas Department of Education.

3.02 "Nonresident or receiving district" means the public school district, or open-enrollment public charter school, to which a student transfers or seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.03 "Nonresident or receiving school" means the public school to which a student transfers or seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227. A nonresident or receiving school may be a public school within the resident district, a public school within a nonresident district, or an open-enrollment public charter school.

3.04 "Resident or transferring district" means the public school district in which the student resides and from which the student seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.05 "Resident or transferring school" means the public school in which the student is enrolled at the time of application and from which the student seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.06 "Public school or school district in academic distress" means 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.

4.00 GENERAL REQUIREMENTS

4.01 Upon the request of a parent or guardian, or the student if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school under these rules if:

4.01.1 The resident public school or school district has been classified by the State Board of Education as a public school or school district in academic distress; and

4.01.2 The parent or guardian, or the student if the student is over eighteen (18) years of age, has notified the Department of Education and both the transferring and receiving school districts of the request to transfer no later than July 30 of the first year in which the student intends to transfer.

4.02 Each school district board of directors shall offer the Opportunity Public School Choice option within the public schools. The Opportunity Public School Choice option shall be offered in addition to other existing choice programs.

4.03 The parent or guardian of a student, or the student if the student is over eighteen (18) years of age, 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 may choose as an alternative to enroll the student in a legally allowable public school or school district that is not classified as a public school or school district in academic distress and that is nearest to the student's legal residence. That school or school district shall accept the student and report the student for purposes of the funding under applicable state law.

4.04 Within thirty (30) days from receipt of an application from a student seeking admission under these rules, the superintendent of the nonresident district shall notify in writing the parent or guardian, or the student if the student is over eighteen (18) years of age, whether the Opportunity Public School Choice application has been accepted or rejected. The notification shall be sent via First-Class Mail to the address on the application.

4.04.1 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter the deadline by which the student must enroll in the receiving school.

4.04.2 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the specific reasons for the rejection.

4.04.3 A school district shall not deny a student the ability to transfer to a nonresident school under these rules unless there is a lack of capacity at the nonresident school.

4.04.4 A lack of capacity may be claimed by a school district only if the nonresident school has reached the maximum student-to-teacher ratio allowed under federal law, state law, the rules for standards of

accreditation, or other applicable regulations. For the purposes of these rules, a school district may claim a lack of capacity if, as of the date the application for opportunity school choice is made, ninety-five percent (95%) or more of the seats at the grade level at the nonresident school are filled.

4.04.5 The race or ethnicity of a student shall not be used to deny a student the ability to attend a nonresident school under these rules.

4.04.6 Pursuant to Section 7.00 of these rules, a parent or guardian, or the student if the student is over eighteen (18) years of age, may appeal a school district's decision to deny admission to a nonresident school to the State Board of Education after the student or the student's parent or guardian receives written notice from the nonresident district that admission has been denied.

4.04.7 If any provision of these rules conflicts with the provisions of a federal desegregation court order applicable to a school district, the provisions of the federal desegregation order shall govern.

4.05 For each student 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, a school district shall:

4.05.1 Timely notify the parent or guardian, or the student if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available under these rules; and

4.05.2 Offer the parent or guardian, or the student if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by the State Board of Education as a public school or school district in academic distress.

4.05.3 The opportunity to continue attending the public school or school district that is not classified as a public school or school district in academic distress shall remain in force until the student graduates from high school.

4.06 For the purposes of continuity of educational choice, a transfer under these rules shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until:

4.06.1 The student completes high school; or,

4.06.2 The parent or guardian, or the student if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

4.07 A transfer under these rules is effective at the beginning of the next academic year.

4.08 Students with disabilities who are eligible to receive services from the transferring school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, and who participate in the Opportunity Public School Choice Act program, shall remain eligible to receive services from the receiving school district as provided by state or federal law. Any funding for the student shall be transferred to the school district to which the student transfers.

4.09 The receiving public school or school district may transport students to and from the transferring public school or school district, and the cost of transporting students shall be the responsibility of the transferring public school or school district except as provided under Sections 4.09.1 and 4.09.2 of these rules.

4.09.1 A transferring public school or school district shall not be required to spend more than four hundred dollars ($400) per student per school year for transportation required under Section 4.09 of these rules.

4.09.2 Upon the transferring public school or school district's removal from classification as a public school or school district in academic distress, the transportation costs shall no longer be the responsibility of the transferring public school or school district, and the student's transportation and the costs of transportation shall be the responsibility of the parent or guardian or of the receiving public school or school district if the receiving public school or school district agrees to bear the transportation costs.

4.10 Unless excused by the school for illness or other good cause:

4.10.1 Any student participating in the Opportunity Public School Choice option shall remain in attendance throughout the school year and shall comply fully with the receiving school's code of conduct; and

4.10.2 The parent or guardian of each student participating in the Opportunity Public School Choice option shall comply fully with the receiving school's parental involvement requirements.

4.11 The parent or guardian shall ensure that the student participating in the opportunity public school choice option takes all statewide assessments, including, but not limited to, benchmark exams, required pursuant to Ark. Code Ann. § 6-15-433.

4.12 A student failing to comply with the requirements of these rules shall forfeit the Opportunity Public School Choice option.

4.13 A receiving district shall accept credits toward graduation that were awarded by another district.

4.14 The receiving district shall award a diploma to a student transferred under these rules if the student meets the receiving district's graduation requirements.

4.15 A district under this program shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

5.00 REPORTING REQUIREMENTS

5.01 The Department of Education shall develop an annual report on the status of school choice and deliver the report to the State Board of Education, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.

5.02 Each school district board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to these rules. The school district board of directors shall report this data through its cycle reports as prescribed by the Commissioner of Education.

5.03 All school districts shall report to the Department of Education on an annual basis the race and gender of each student identified in Section 5.02 above, and other pertinent information needed to properly monitor compliance with the provisions of these rules. The reports may be on forms prescribed by the Department of Education, or the data may be submitted electronically by the district using a format authorized by the Department of Education. The school districts shall report this data through its cycle reports as prescribed by the Commissioner of Education.

5.03.1 The Department of Education may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the Department of Education so long as thirty (30) calendar days are given between the request for the information and the published deadline.

5.03.2 A copy of the report shall be provided to the Joint Interim Committee on Education.

5.04 The receiving school district shall report all students who transfer from another public school under this program. The students attending public schools pursuant to the Opportunity Public School Choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.

6.00 FUNDING CONSIDERATIONS

6.01 For the purposes of determining a school district's state funding, the nonresident student shall be counted as a part of the average daily membership of the receiving district.

6.02 The maximum Opportunity Public School Choice funds granted for an eligible student shall be calculated based on applicable state law.

6.03 The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

7.00 APPEAL PROCEDURES

7.01 A parent or guardian, or the student if the student is over eighteen (18) years of age, may appeal a school district's decision to deny admission to a nonresident school due to a lack of capacity to the State Board of Education pursuant to this section.

7.02 The student or the student's parent or guardian (hereinafter the appealing party) must present a written appeal to the State Board of Education via certified mail, return receipt requested, no later than ten (10) calendar days, excluding weekends and legal holidays, after the appealing party receives notice of rejection from the superintendent of the nonresident district in accordance with Section 4.04 of these rules.

7.02.1 The written appeal should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.02.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the appealing party must also mail a copy of the written appeal to the superintendent of the nonresident school district.

7.02.3 In its written appeal, the appealing party shall state his or her basis for appealing the decision of the nonresident district.

7.02.4 The appealing party must submit, along with its written appeal, a copy of the rejection letter from the nonresident district.

7.02.5 Any request for a hearing before the State Board of Education must be made in the written appeal.

7.03 The nonresident district may submit, in writing, any additional information, evidence or arguments supporting its rejection of the student's application by mailing such response via certified mail, return receipt requested to the State

Board of Education no later than ten (10) days after receiving the appealing party's written appeal.

7.03.1 Any response from the nonresident district should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.03.2 Contemporaneously with the filing of the written response with the Office of the Commissioner, the nonresident district must also mail a copy of the written response to the appealing party.

7.03.3 If the appealing party did not request a hearing before the State Board of Education, the nonresident district may request a hearing in its response.

7.04 If a hearing is requested by either party, the State Board of Education shall schedule the hearing for the next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.05 If no hearing is requested by either party, the State Board of Education shall consider the appeal during its next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.06 State Board of Education Hearing Procedures

7.06.1 A staff member of the Department of Education shall introduce the agenda item.

7.06.2 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board of Education.

7.06.3 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.

7.06.4 Each party will be given twenty (20) minutes to present their cases, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

7.06.5 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board of Education as a witness during the hearing. The

State Board of Education may accept testimony by affidavit, declaration, or deposition.

7.06.6 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

7.06.7 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1, 2, 3).

7.06.8 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A, B, C).

7.06.9 The nonresident district shall have the burden of proof in proving the basis for the denial of the transfer.

7.06.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

7.06.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board of Education shall provide a written decision to the Department of Education, the appealing party, and the nonresident district within fourteen (14) calendar days of announcing its decision under this section.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District and School Name: County Name:

Address:

Phone:

ATTACHMENT 1

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Note 1: The race or ethnicity of a student shall not be used to deny the student to attend a school district of choice under the Arkansas Opportunity School Choice Act. This information is gathered for district reporting purposes only.

Note 2: Pursuant to Ark. Code Ann. § 6-18-227, reviewers of this application are hereby notified that a transfer under the Arkansas Opportunity School Choice Act shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or as otherwise provided by law.

Note 3: A school district shall not deny a student the ability to attend school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice as defined by Arkansas law and Arkansas Department of Education rules.

Note 4: Pursuant to Ark. Code Ann. § 6-18-227, a student may only transfer from a public school or school district that has been classified as a public school or school district in academic distress.

DISTRICT USE ONLY					
Date and Time Received by Nonresident District:					
Resident District LEA #:			Nonresident District LEA#:		
Resident School LEA#:			Nonresident School LEA#:		
Student's State Identification #:					
Application	Accepted		Rejected		
Reason for Rejection (If Applicable):					
Date Notification Sent to Parent/Guardian of Applicant:					

HEARING PROCEDURES

Board of Education no later than ten (10) days after receiving the appealing party's written appeal.

7.03.1 Any response from the nonresident district should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.03.2 Contemporaneously with the filing of the written response with the Office of the Commissioner, the nonresident district must also mail a copy of the written response to the appealing party.

7.03.3 If the appealing party did not request a hearing before the State Board of Education, the nonresident district may request a hearing in its response.

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7.06.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

7.06.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board of Education shall provide a written decision to the Department of Education, the appealing party, and the nonresident district within fourteen (14) calendar days of announcing its decision under this section.

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

July 21, 2015

Ms. Karen Jefferson
[redacted]
Little Rock, AR 72209

Dr. Frederick L. Fields
Little Rock School District
501 Sherman Street
Little Rock, AR 72202-2451

Re: Appeal Under the Opportunity Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is scheduled to hear the above-referenced appeal(s) on **Thursday, August 6, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on Friday, July 24, 2015**.

The Arkansas State Board of Education has requested the parent and the district attend this meeting and be available for questions.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by Ark. Code Ann. § 6-18-227 and the Arkansas Department of Education Rules Governing the Opportunity Public School Choice Act. You may find a copy of the applicable rules here:

http://www.arkansased.gov/public/userfiles/rules/Current/Opportunity_School_Choice_Rules_Final_September_2013.pdf

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

Jennifer Davis
Staff Attorney
Arkansas Department of Education
Four Capitol Mall, Room 301-A
Little Rock, AR 72201
(501) 682-4227
(501) 682-4249 (fax)
jennifer.davis@arkansas.gov

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

LITTLE ROCK SCHOOL DISTRICT
STUDENT REGISTRATION OFFICE
501 SHERMAN STREET
LITTLE ROCK, AR 72202

June 12, 2015

TO THE PARENT OF:
Nathan Cooper 009
[redacted]
Little Rock, AR 72209

ID#: 328373
Assigned School: Mc Clellan Magnet High School
Grade(2015-16): 09*

Dear Parent:

Thank you for submitting your Arkansas Opportunity School Choice application to the Little Rock School District. I regret to inform you the school selected does not have any available seats at this time. Therefore, your child will remain at their attendance zone school. You will need to report to your assigned school for Check-In, August 3-4, 2015.

You have 10 days to appeal this decision. You may contact:

The Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, AR 72201

Office of higher education

While we were not able to grant your choice application at this time, we would like to assure you the Little Rock School District is committed to providing a quality and equitable education at all of our schools. We solicit and look forward to your continued support and involvement in the educational process of your child.

Sincerely,

Dr. Frederick L. Fields, Senior Director of Student Services/SATS

RECEIVED
ATTORNEY'S OFFICE
JUN 22 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

RECEIVED
JUN 09 2015
JUN 09 2015

ATTACHMENT 1

RECEIVED
ATTORNEY'S OFFICE
JUN 26 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

328373

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION

Student Name: N[redacted] Cooper Jr

Student Date of Birth: [redacted] Gender Male ☑ Female ☐

Grade: 8th

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☑

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: L.R.S.D. Forest Heights Stem County Name: Pulaski

Address:

Phone: 447-2700

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND:

District and School Name: Parkview County Name:

Address:

Phone:

ATTACHMENT 1

PARENT OR GUARDIAN INFORMATION

Name: Karen Jefferson	Home Phone: [redacted]
Address [redacted]	Work Phone:
Parent/Guardian Signature	Date: 06/9/15

Note 1: The race or ethnicity of a student shall not be used to deny the student to attend a school district of choice under the Arkansas Opportunity School Choice Act. This information is gathered for district reporting purposes only.

Note 2: Pursuant to Ark. Code Ann. § 6-18-227, reviewers of this application are hereby notified that a transfer under the Arkansas Opportunity School Choice Act shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or as otherwise provided by law.

Note 3: A school district shall not deny a student the ability to attend school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice as defined by Arkansas law and Arkansas Department of Education rules.

Note 4: Pursuant to Ark. Code Ann. § 6-18-227, a student may only transfer from a public school or school district that has been classified as a public school or school district in academic distress.

DISTRICT USE ONLY

Date and Time Received by Nonresident District:	
Resident District LEA #: Little Rock School District	Nonresident District LEA#:
Resident School LEA#: 6001000	Nonresident School LEA#:
Student's State Identification #: [redacted]	
Application Accepted [ ]	Rejected [✓]
Reason for Rejection (If Applicable): Lack of Space.	
Date Notification Sent to Parent/Guardian of Applicant: 05/08/15	

LITTLE ROCK SCHOOL DISTRICT – 501 SHERMAN ST., LITTLE ROCK, AR 72202 (501) 447-2950

OPTIONAL ENROLLMENT REQUEST FORM
HIGH SCHOOL (Grades 9th-12th)

Student ID. # _____
Date Rec'd: 1/28/15
Rec'd. By: AC

Directions:

- Please read all information before completing this form.
- The Student Registration Office will be responsible for all optional enrollment assignments.
- If the demand exceeds supply, a random scramble selection process will be used to fill vacancies.
- Students who are not selected will have their names placed on a waiting list.

(PLEASE PRINT OR TYPE) ☐ Check if this is a **NEW** address. If so, the parent **MUST** process a Change of Address Form.

Student's Legal Name: Nathan M Cooper Jr.
Street Address: [redacted] **City:** LR **Zip:** 72209
Date of Birth: Month 11 **Day** 10 **Year** 2000 **Gender:** ✓ **Male** __ **Female**
Home/Cell Phone: [redacted] **Parent's Work Phone:** _____
Current School Assignment Forest Heights Stem **Grade Level** 8th

PARENTS MAY MAKE UP TO THREE (3) CHOICES FROM THE OPTIONS LISTED BELOW. RANK YOUR CHOICES IN NUMERICAL ORDER (1ST, 2ND AND 3RD). YOU ARE NOT REQUIRED TO USE ALL OF YOUR CHOICES.

____ Central High International Studies
3 Central High Gifted and Talented **(Must be identified as Gifted and Talented)***
____ Parkview Arts Band **(Must have at least 1 year Band experience – must pass an audition to qualify)**
____ Parkview Arts Dance
____ Parkview Arts Orchestra **(Must have at least 1 year Orchestra experience-must pass an audition to qualify)**
2 Parkview Science
____ Parkview Arts Speech & Drama – (gender balanced)
1 Parkview Arts Visual Arts
____ Parkview Arts Vocal Music

SIBLINGS ENROLLED IN HIGH SCHOOL MAGNET/SPECIALITY ONLY:

Student Name	School

*** If the student is not currently enrolled but lives within the Little Rock School District boundaries, the parent MUST provide Gifted and Talented documentation before submitting application.**

NOTE: **THIS FORM IS TO BE USED FOR STUDENTS WHO RESIDE IN *LRSD ONLY*.**

I understand if I wish to withdraw this application for any reason, I may do so prior to assignment of my child. I agree if my request is approved, my child MUST remain in the program for a minimum of one (1) school semester.

Parent Signature _____ **Date** 1/28/15

White Copy – Student Assignment Office

Yellow Copy – Parent

RECEIVED
ATTORNEY'S OFFICE
JUN 28 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

RESPONSE

LITTLE ROCK SCHOOL DISTRICT
501 SHERMAN STREET
LITTLE ROCK, AR 72202

OFFICE OF STUDENT SERVICES
Dr. Frederick Fields

Phone: (501) 447-2950
E-Mail: frederick.fields@lrsd.org

Dear Attorney Davis,

Distressed applications are reviewed on a first come, first serve Basis. N[redacted] Cooper's Distressed application was submitted on June 9, 2015, at 2:19 p.m. His application number was #191 for Parkview High School.

However, we had limited seats to offer based on our enrollment. Therefore, his application was reviewed and denied based on lack of seat availability.

If you need any additional information, please feel free to contact me at (501) 447-2950.

Sincerely,

Frederick L. Fields, ED.D
Sr. Director of Student Services

RECEIVED
JUN 09 2015
JUN 0 9 2015

ATTACHMENT 1

191

328373

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION

Student Name: N[redacted] Cooper Jr

Student Date of Birth: [redacted] Gender Male ☑ Female ☐

Grade: 8th

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☑

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: L.R.S.D. Forest Heights Stem County Name: Pulaski

Address:

Phone: 447-2700

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District and School Name: Parkview County Name:

Address:

Phone:

ATTACHMENT 1

PARENT/GUARDIAN INFORMATION	
Name: Karen Jefferson	Home Phone: [redacted]
Address: [redacted]	Work Phone:
Parent/Guardian Signature	Date: 06/9/15

Note 1: The race or ethnicity of a student shall not be used to deny the student to attend a school district of choice under the Arkansas Opportunity School Choice Act. This information is gathered for district reporting purposes only.

Note 2: Pursuant to Ark. Code Ann. § 6-18-227, reviewers of this application are hereby notified that a transfer under the Arkansas Opportunity School Choice Act shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or as otherwise provided by law.

Note 3: A school district shall not deny a student the ability to attend school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice as defined by Arkansas law and Arkansas Department of Education rules.

Note 4: Pursuant to Ark. Code Ann. § 6-18-227, a student may only transfer from a public school or school district that has been classified as a public school or school district in academic distress.

DISTRICT REVIEW	
Date and Time Received by Nonresident District:	
Resident District LEA #: Little Rock School District	Nonresident District LEA#:
Resident School LEA#: 600100	Nonresident School LEA#:
Student's State Identification #: 477338 0381	
Application Accepted [ ]	Rejected [✓]
Reason for Rejection (If Applicable): Lack of space.	
Date Notification Sent to Parent/Guardian of Applicant: 05/08/15	

SCHOOL DISTRESSED LOG

#	DATE	TIME	STUDENT NAME	PARENT NAME	CONTACT NUMBER	EMAIL ADDRESS	CONFIRM EMAIL ADDRESS	SCHOOL ASSIGNMENT	REQUESTED SCHOOL
181	6-5-15	1:30	[redacted]					Franklin	Pulaski Heights
182	6-5-15	4:41						Henderson	Pulaski Heights
183	6/7/15	8:45						McClellan	Central
184	6/8/15	9:40						Hall	Parkview
185	6/8/15	9:43						Robinson	Parkview
186	6/8/15	4:21						Lakefield	Dunbar
187	6/9/15	8:47						Cloverdale	Mabelvale
188	6/9/15	9:29						McClellan	Central
189	6/9/15	10:15						J.A Fair	Science Parkview
190	6/9/15	1:29						Cloverdale	Dunbar
191	6/9/15	2:19	N[redacted] Cooper Jr	Karen Jefferson	[redacted]			McClellan	Parkview
192	6/9/15	2:45	[redacted]					McClellan	~~J.A Fair~~ Parkview
193	6/9/15	4:30						Henderson	Pulaski Heights
194	6/10/15	9:00						Henderson	Pulaski Heights
195	6/10/15	8:35						Henderson	Dunbar

ASSOCIATED DOCUMENTS

OPPORTUNITY SCHOOL CHOICE STATUTES AND ACTS

FOCUS™ Terms Search Within Original Results (1 - 1) Go
Advanced...

View Tutorial

View Full

1 of 1
Return to Results | Book Browse
A.C.A. § 6-18-227 (Copy w/ Cite) Pages: **6**

A.C.A. § 6-18-227

Arkansas Code of 1987 Annotated Official Edition
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All rights reserved.

*** Legislation is current through the 2014 Fiscal Session and updates ***
*** received from the Arkansas Code Revision Commission through ***
*** July 2, 2014. ***

Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 2 -- Attendance

A.C.A. § 6-18-227 (2014)

6-18-227. Arkansas Opportunity Public School Choice Act of 2004.

(a) (1) This section may be referred to and cited as the "Arkansas Opportunity Public School Choice Act of 2004".

(2) (A) The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a technical education, or the world of work.

(B) The General Assembly:

(i) Recognizes that the Arkansas Constitution, as interpreted by the Supreme Court in Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002), makes education a paramount duty of the state;

(ii) Finds that the Arkansas Constitution requires the state to provide an adequate education;

(iii) Further finds that a student should not be compelled against the wishes of the parent, guardian, or the student, if the student is over eighteen (18) years of age, to remain in a public school or school district classified by the State Board of Education as a school or school district in academic distress under § 6-15-428; and

(iv) Shall make available a public school choice option in order to give a child the opportunity to attend a public school or school district not in academic distress.

(3) The General Assembly further finds that giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools, since teachers, administrators, and school district board members will have added incentives to satisfy the educational needs of the students who reside in the district.

(4) A public school choice program is hereby established to enable any student to transfer from a public school or school district classified by the state board as a public school or school district in academic distress to another public school or school district in the state that is not in academic distress, subject to the restrictions contained in this section.

(b) (1) Upon the request of a parent, guardian, or the student, if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school under this section if:

(A) The resident public school or school district has been classified by the state board as a public school or school district in academic distress; and

(B) The parent, guardian, or the student, if the student is over eighteen (18) years of age, has notified the Department of Education and both the sending and receiving school districts of the request for a transfer no later than July 30 of the first year in which the student intends to transfer.

(2) (A) (i) For the purposes of continuity of educational choice, the transfer shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or the parent, guardian, or the student, if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

(ii) A transfer under this section is effective at the beginning of the next academic year.

(B) Application for the opportunity public school choice option shall be provided by the department, shall contain a notice that a transfer under this subsection shall operate as an irrevocable choice for at least one (1) entire school year, and shall remain in force until the student completes high school as provided in this subsection except as otherwise provided by law.

(3) (A) For each student enrolled in or assigned to a public school or school district that has been classified by the state board as a public school or school district in academic distress, a school district shall:

(i) Timely notify the parent, guardian, or the student, if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available under this section; and

(ii) (a) Offer the parent, guardian, or the student, if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by the state board as a public school or school district in academic distress.

(b) The opportunity to continue attending the public school or school district that is not classified as a public school or school district in academic distress shall remain in force until the student graduates from high school.

(B) (i) The parent or guardian of a student enrolled in or assigned to a public school or school district that has been classified by the state board as a public school or school district in academic distress may choose as an alternative to enroll the student in a legally allowable public school or school district that is not classified as a public school or school district in academic distress and that is nearest to the student's legal residence.

(ii) That school or school district shall accept the student and report the student for purposes of the funding under applicable state law.

(C) (i) Students with disabilities who are eligible to receive services from the school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, and who participate in the public school choice program remain eligible to receive services from the school district as provided by federal or state law.

(ii) Any funding for the student shall be transferred to the public school or school district to which the student transfers.

(c) (1) (A) The receiving public school or school district may transport students to and from the transferring public school or school district, and the cost of transporting students shall be the responsibility of the transferring public school or school district except as provided under subdivisions (c)(1)(B) and (c)(2) of this section.

(B) A transferring public school or school district shall not be required to spend more than four hundred dollars ($400) per student per school year for transportation required under subdivision (c)(1)(A) of this section.

(2) Upon the transferring public school's or school district's removal from classification as a public school or school district in academic distress, the transportation costs shall no longer be the responsibility of the transferring public school or school district, and the student's transportation and the costs of the transportation shall be the responsibility of the parent or guardian or of the receiving public school or school district if the receiving public school or school district agrees to bear the transportation costs.

(d) (1) (A) Each school district board of directors shall offer the opportunity public school choice option within the public schools.

(B) The opportunity public school choice option shall be offered in addition to other existing choice programs.

(2) (A) (i) A school district shall not deny a student the ability to attend a school in the student's school district of choice under this section unless there is a lack of capacity at the school in the student's school district of choice.

(ii) 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.

(B) The race or ethnicity of a student shall not be used to deny a student the ability to attend a school in the student's school district of choice under this section.

(3) A student or the student's parent or guardian may appeal a school district's decision to deny admission to a school in a student's school district of choice due to lack of capacity to the State Board of Education after the student or the student's parent or guardian receives a written notice from the school district of choice that admission has been denied.

(4) The department shall promulgate rules governing the use of school capacity as a basis for denying admission under this section.

(e) (1) The provisions of this section and all student choice options created in this section shall comply with § 6-18-206(d) [repealed], (e) [repealed], and (i) [repealed] and shall not be subject to any other limitation or restriction provided by law.

(2) If any part of this section conflicts with the provisions of a federal desegregation court order applicable to a school district, the provisions of the federal desegregation court order shall govern.

(f) The department shall develop an annual report on the status of school choice and deliver the report to the state board, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.

(g) Each school district board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to rules adopted by the state board.

(h) (1) A receiving district shall accept credits toward graduation that were awarded by another district.

(2) The receiving district shall award a diploma to a nonresident student if the student meets the receiving district's graduation requirements.

(i) For purposes of determining a school district's state funding, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.

(j) (1) All school districts shall report to the department on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.

(2) The reports may be on those forms that are prescribed by the department, or the data may be submitted electronically by the district using a format authorized by the department.

(3) The department may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the department so long as thirty (30) calendar days are given between the request for the information and the published deadline.

(4) A copy of the report shall be provided to the House Committee on Education and the Senate Committee on Education.

(k) (1) Unless excused by the school for illness or other good cause:

(A) Any student participating in the opportunity public school choice option shall remain in attendance throughout the school year and shall comply fully with the school's code of conduct; and

(B) The parent or guardian of each student participating in the opportunity public school choice option shall comply fully with the receiving public school's parental involvement requirements.

(2) A participant who fails to comply with this section shall forfeit the opportunity public school choice option.

(l) (1) The maximum opportunity public school choice funds granted for an eligible student shall be calculated based on applicable state law.

(2) (A) The receiving school district shall report all students who transfer from another public school under the public school choice program.

(B) The students attending public schools pursuant to the opportunity public school choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.

(3) The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

(m) The state board shall adopt any rules necessary for the implementation of this section pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(n) A district under the public school choice program shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2003 (2nd Ex. Sess.), No. 35, § 7; 2005, No. 2121, § 22; 2011, No. 1124, §§ 1, 2; 2011, No. 1147, § 1; 2013, No. 600, §§ 7-12; 2013, No. 1138, § 45; 2013, No. 1227, § 4; 2013, No. 1429, § 11.

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OPPORTUNITY SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT
September 2013

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Rules Governing the Arkansas Opportunity Public School Choice Act.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Arkansas Opportunity Public School Choice Act as amended.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by Ark. Code Ann. §§ 6-11-105, 6-18-227, 6-15-430, 25-15-201 et seq., and Acts 600, 1227 and 1429 of 2013.

3.00 DEFINITIONS

As used in these rules:

3.01 "Department" means the Arkansas Department of Education.

3.02 "Nonresident or receiving district" means the public school district, or open-enrollment public charter school, to which a student transfers or seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.03 "Nonresident or receiving school" means the public school to which a student transfers or seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227. A nonresident or receiving school may be a public school within the resident district, a public school within a nonresident district, or an open-enrollment public charter school.

3.04 "Resident or transferring district" means the public school district in which the student resides and from which the student seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.05 "Resident or transferring school" means the public school in which the student is enrolled at the time of application and from which the student seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.06 "Public school or school district in academic distress" means 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.

4.00 GENERAL REQUIREMENTS

4.01 Upon the request of a parent or guardian, or the student if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school under these rules if:

4.01.1 The resident public school or school district has been classified by the State Board of Education as a public school or school district in academic distress; and

4.01.2 The parent or guardian, or the student if the student is over eighteen (18) years of age, has notified the Department of Education and both the transferring and receiving school districts of the request to transfer no later than July 30 of the first year in which the student intends to transfer.

4.02 Each school district board of directors shall offer the Opportunity Public School Choice option within the public schools. The Opportunity Public School Choice option shall be offered in addition to other existing choice programs.

4.03 The parent or guardian of a student, or the student if the student is over eighteen (18) years of age, 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 may choose as an alternative to enroll the student in a legally allowable public school or school district that is not classified as a public school or school district in academic distress and that is nearest to the student's legal residence. That school or school district shall accept the student and report the student for purposes of the funding under applicable state law.

4.04 Within thirty (30) days from receipt of an application from a student seeking admission under these rules, the superintendent of the nonresident district shall notify in writing the parent or guardian, or the student if the student is over eighteen (18) years of age, whether the Opportunity Public School Choice application has been accepted or rejected. The notification shall be sent via First-Class Mail to the address on the application.

4.04.1 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter the deadline by which the student must enroll in the receiving school.

4.04.2 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the specific reasons for the rejection.

4.04.3 A school district shall not deny a student the ability to transfer to a nonresident school under these rules unless there is a lack of capacity at the nonresident school.

4.04.4 A lack of capacity may be claimed by a school district only if the nonresident school has reached the maximum student-to-teacher ratio allowed under federal law, state law, the rules for standards of

accreditation, or other applicable regulations. For the purposes of these rules, a school district may claim a lack of capacity if, as of the date the application for opportunity school choice is made, ninety-five percent (95%) or more of the seats at the grade level at the nonresident school are filled.

4.04.5 The race or ethnicity of a student shall not be used to deny a student the ability to attend a nonresident school under these rules.

4.04.6 Pursuant to Section 7.00 of these rules, a parent or guardian, or the student if the student is over eighteen (18) years of age, may appeal a school district's decision to deny admission to a nonresident school to the State Board of Education after the student or the student's parent or guardian receives written notice from the nonresident district that admission has been denied.

4.04.7 If any provision of these rules conflicts with the provisions of a federal desegregation court order applicable to a school district, the provisions of the federal desegregation order shall govern.

4.05 For each student 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, a school district shall:

4.05.1 Timely notify the parent or guardian, or the student if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available under these rules; and

4.05.2 Offer the parent or guardian, or the student if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by the State Board of Education as a public school or school district in academic distress.

4.05.3 The opportunity to continue attending the public school or school district that is not classified as a public school or school district in academic distress shall remain in force until the student graduates from high school.

4.06 For the purposes of continuity of educational choice, a transfer under these rules shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until:

4.06.1 The student completes high school; or,

4.06.2 The parent or guardian, or the student if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

4.07 A transfer under these rules is effective at the beginning of the next academic year.

4.08 Students with disabilities who are eligible to receive services from the transferring school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, and who participate in the Opportunity Public School Choice Act program, shall remain eligible to receive services from the receiving school district as provided by state or federal law. Any funding for the student shall be transferred to the school district to which the student transfers.

4.09 The receiving public school or school district may transport students to and from the transferring public school or school district, and the cost of transporting students shall be the responsibility of the transferring public school or school district except as provided under Sections 4.09.1 and 4.09.2 of these rules.

4.09.1 A transferring public school or school district shall not be required to spend more than four hundred dollars ($400) per student per school year for transportation required under Section 4.09 of these rules.

4.09.2 Upon the transferring public school or school district's removal from classification as a public school or school district in academic distress, the transportation costs shall no longer be the responsibility of the transferring public school or school district, and the student's transportation and the costs of transportation shall be the responsibility of the parent or guardian or of the receiving public school or school district if the receiving public school or school district agrees to bear the transportation costs.

4.10 Unless excused by the school for illness or other good cause:

4.10.1 Any student participating in the Opportunity Public School Choice option shall remain in attendance throughout the school year and shall comply fully with the receiving school's code of conduct; and

4.10.2 The parent or guardian of each student participating in the Opportunity Public School Choice option shall comply fully with the receiving school's parental involvement requirements.

4.11 The parent or guardian shall ensure that the student participating in the opportunity public school choice option takes all statewide assessments, including, but not limited to, benchmark exams, required pursuant to Ark. Code Ann. § 6-15-433.

4.12 A student failing to comply with the requirements of these rules shall forfeit the Opportunity Public School Choice option.

4.13 A receiving district shall accept credits toward graduation that were awarded by another district.

4.14 The receiving district shall award a diploma to a student transferred under these rules if the student meets the receiving district's graduation requirements.

4.15 A district under this program shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

5.00 REPORTING REQUIREMENTS

5.01 The Department of Education shall develop an annual report on the status of school choice and deliver the report to the State Board of Education, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.

5.02 Each school district board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to these rules. The school district board of directors shall report this data through its cycle reports as prescribed by the Commissioner of Education.

5.03 All school districts shall report to the Department of Education on an annual basis the race and gender of each student identified in Section 5.02 above, and other pertinent information needed to properly monitor compliance with the provisions of these rules. The reports may be on forms prescribed by the Department of Education, or the data may be submitted electronically by the district using a format authorized by the Department of Education. The school districts shall report this data through its cycle reports as prescribed by the Commissioner of Education.

5.03.1 The Department of Education may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the Department of Education so long as thirty (30) calendar days are given between the request for the information and the published deadline.

5.03.2 A copy of the report shall be provided to the Joint Interim Committee on Education.

5.04 The receiving school district shall report all students who transfer from another public school under this program. The students attending public schools pursuant to the Opportunity Public School Choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.

6.00 FUNDING CONSIDERATIONS

6.01 For the purposes of determining a school district's state funding, the nonresident student shall be counted as a part of the average daily membership of the receiving district.

6.02 The maximum Opportunity Public School Choice funds granted for an eligible student shall be calculated based on applicable state law.

6.03 The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

7.00 APPEAL PROCEDURES

7.01 A parent or guardian, or the student if the student is over eighteen (18) years of age, may appeal a school district's decision to deny admission to a nonresident school due to a lack of capacity to the State Board of Education pursuant to this section.

7.02 The student or the student's parent or guardian (hereinafter the appealing party) must present a written appeal to the State Board of Education via certified mail, return receipt requested, no later than ten (10) calendar days, excluding weekends and legal holidays, after the appealing party receives notice of rejection from the superintendent of the nonresident district in accordance with Section 4.04 of these rules.

7.02.1 The written appeal should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.02.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the appealing party must also mail a copy of the written appeal to the superintendent of the nonresident school district.

7.02.3 In its written appeal, the appealing party shall state his or her basis for appealing the decision of the nonresident district.

7.02.4 The appealing party must submit, along with its written appeal, a copy of the rejection letter from the nonresident district.

7.02.5 Any request for a hearing before the State Board of Education must be made in the written appeal.

7.03 The nonresident district may submit, in writing, any additional information, evidence or arguments supporting its rejection of the student's application by mailing such response via certified mail, return receipt requested to the State

Board of Education no later than ten (10) days after receiving the appealing party's written appeal.

7.03.1 Any response from the nonresident district should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.03.2 Contemporaneously with the filing of the written response with the Office of the Commissioner, the nonresident district must also mail a copy of the written response to the appealing party.

7.03.3 If the appealing party did not request a hearing before the State Board of Education, the nonresident district may request a hearing in its response.

7.04 If a hearing is requested by either party, the State Board of Education shall schedule the hearing for the next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.05 If no hearing is requested by either party, the State Board of Education shall consider the appeal during its next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.06 State Board of Education Hearing Procedures

7.06.1 A staff member of the Department of Education shall introduce the agenda item.

7.06.2 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board of Education.

7.06.3 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.

7.06.4 Each party will be given twenty (20) minutes to present their cases, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

7.06.5 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board of Education as a witness during the hearing. The

State Board of Education may accept testimony by affidavit, declaration, or deposition.

7.06.6 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

7.06.7 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1, 2, 3).

7.06.8 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A, B, C).

7.06.9 The nonresident district shall have the burden of proof in proving the basis for the denial of the transfer.

7.06.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

7.06.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board of Education shall provide a written decision to the Department of Education, the appealing party, and the nonresident district within fourteen (14) calendar days of announcing its decision under this section.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District and School Name: County Name:

Address:

Phone:

ATTACHMENT 1

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Note 1: The race or ethnicity of a student shall not be used to deny the student to attend a school district of choice under the Arkansas Opportunity School Choice Act. This information is gathered for district reporting purposes only.

Note 2: Pursuant to Ark. Code Ann. § 6-18-227, reviewers of this application are hereby notified that a transfer under the Arkansas Opportunity School Choice Act shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or as otherwise provided by law.

Note 3: A school district shall not deny a student the ability to attend school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice as defined by Arkansas law and Arkansas Department of Education rules.

Note 4: Pursuant to Ark. Code Ann. § 6-18-227, a student may only transfer from a public school or school district that has been classified as a public school or school district in academic distress.

DISTRICT USE ONLY					
Date and Time Received by Nonresident District:					
Resident District LEA #:			Nonresident District LEA#:		
Resident School LEA#:			Nonresident School LEA#:		
Student's State Identification #:					
Application	Accepted		Rejected		
Reason for Rejection (If Applicable):					
Date Notification Sent to Parent/Guardian of Applicant:					

HEARING PROCEDURES

Board of Education no later than ten (10) days after receiving the appealing party's written appeal.

7.03.1 Any response from the nonresident district should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.03.2 Contemporaneously with the filing of the written response with the Office of the Commissioner, the nonresident district must also mail a copy of the written response to the appealing party.

7.03.3 If the appealing party did not request a hearing before the State Board of Education, the nonresident district may request a hearing in its response.

7.04 If a hearing is requested by either party, the State Board of Education shall schedule the hearing for the next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.05 If no hearing is requested by either party, the State Board of Education shall consider the appeal during its next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.06 State Board of Education Hearing Procedures

7.06.1 A staff member of the Department of Education shall introduce the agenda item.

7.06.2 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board of Education.

7.06.3 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.

7.06.4 Each party will be given twenty (20) minutes to present their cases, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

7.06.5 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board of Education as a witness during the hearing. The

State Board of Education may accept testimony by affidavit, declaration, or deposition.

7.06.6 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

7.06.7 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1, 2, 3).

7.06.8 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A, B, C).

7.06.9 The nonresident district shall have the burden of proof in proving the basis for the denial of the transfer.

7.06.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

7.06.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board of Education shall provide a written decision to the Department of Education, the appealing party, and the nonresident district within fourteen (14) calendar days of announcing its decision under this section.

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

July 21, 2015

Mr. Daniel Sawa
[redacted]
Little Rock, AR 72211

Dr. Frederick L. Fields
Little Rock School District
501 Sherman Street
Little Rock, AR 72202-2451

Re: Appeal Under the Opportunity Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is scheduled to hear the above-referenced appeal(s) on **Thursday, August 6, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on Friday, July 24, 2015**.

The Arkansas State Board of Education has requested the parent and the district attend this meeting and be available for questions.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by Ark. Code Ann. § 6-18-227 and the Arkansas Department of Education Rules Governing the Opportunity Public School Choice Act. You may find a copy of the applicable rules here:

http://www.arkansased.gov/public/userfiles/rules/Current/Opportunity_School_Choice_Rules_Final_September_2013.pdf

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

Jennifer Davis
Staff Attorney
Arkansas Department of Education
Four Capitol Mall, Room 301-A
Little Rock, AR 72201
(501) 682-4227
(501) 682-4249 (fax)
jennifer.davis@arkansas.gov

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

Daniel Sawa & Kim Smith

[redacted]

Little Rock AR 72211

The Office Of the Commissioner

ATTN: Opportunity School Choice Appeal

Four Capital Mall

Little Rock, AR 72201

Re: E[redacted] Sawa

Reference is made of the above named student. We as parents of E[redacted] Sawa would like to appeal the decision of the school district to place our son in a low and poor performing school at Henderson. We outright reject our son, E[redacted] to be placed to go to Henderson due to poor performance and rating of this school.

We as parents of E[redacted] would like to exercise our right in the choice of the school we want our son to attend. E[redacted] is an A plus student in academics and we feel the school choice will excel his performance rather than retain his performance abilities. We would like our son to be placed in one of the following schools in order of priority:

1 .Forrest Heights

2. Pulaski Heights

3. Horse Mann

4. Dunbar

Thanking you in advance.

Sincerely

Daniel Sawa 06/26/15

Daniel Sawa

RECEIVED
ATTORNEY'S OFFICE

JUN 30 2015

DEPARTMENT OF EDUCATION
GENERAL DIVISION

DANIEL STANT
[redacted]
SILVERWOODS,
AR - 72120.

FOREVER
USA

THE OFFICE OF THE COMMISSIONER
ATTN: OPPORTUNITY SCHOOL CHOICE APPEAL
FOUR CAPITAL MALL
LITTLE ROCK, AR 72201

LITTLE ROCK SCHOOL DISTRICT
STUDENT REGISTRATION OFFICE
501 SHERMAN STREET
LITTLE ROCK, AR 72202

June 12, 2015

TO THE PARENT OF:
E[redacted] Sawa 047
[redacted]
Little Rock, AR 72211

ID#: [redacted]
Assigned School: Henderson Middle School
Grade(2015-16): 06*

Dear Parent:

Thank you for submitting your Arkansas Opportunity School Choice application to the Little Rock School District. I regret to inform you the school selected does not have any available seats at this time. Therefore, your child will remain at their attendance zone school. You will need to report to your assigned school for Check-In, August 3-4, 2015.

You have 10 days to appeal this decision. You may contact:

The Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, AR 72201

While we were not able to grant your choice application at this time, we would like to assure you the Little Rock School District is committed to providing a quality and equitable education at all of our schools. We solicit and look forward to your continued support and involvement in the educational process of your child.

Sincerely,

Dr. Frederick L. Fields, Senior Director of Student Services/SATS

RECEIVED
ATTORNEY'S OFFICE
JUL 07 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

ATTACHMENT 1

RECEIVED
JUN 12 2015
By AC

#204

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION

Student Name: E[redacted] SAWA

Student Date of Birth: [redacted] Gender Male ☑ Female ☐

Grade: 5th GRADE

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☑

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: LR SCHOOL DISTRICT County Name: PULASKI

Address: TERRY

Phone:

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District and School Name: County Name:

Address: PULASKI HEIGHTS

Phone:

RECEIVED
ATTORNEY'S OFFICE
JUL 14 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

ATTACHMENT 1

PARENT OR GUARDIAN INFORMATION	
Name: Kim Smith	Home Phone: [redacted]
Address: [redacted]	Work Phone: [redacted]
[redacted], Little Rock, AR - 72211	
Parent/Guardian Signature: Kim Smith	Date: 06/12/15

Note 1: The race or ethnicity of a student shall not be used to deny the student to attend a school district of choice under the Arkansas Opportunity School Choice Act. This information is gathered for district reporting purposes only.

Note 2: Pursuant to Ark. Code Ann. § 6-18-227, reviewers of this application are hereby notified that a transfer under the Arkansas Opportunity School Choice Act shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or as otherwise provided by law.

Note 3: A school district shall not deny a student the ability to attend school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice as defined by Arkansas law and Arkansas Department of Education rules.

Note 4: Pursuant to Ark. Code Ann. § 6-18-227, a student may only transfer from a public school or school district that has been classified as a public school or school district in academic distress.

DISTRICT USE ONLY	
Date and Time Received by Nonresident District:	
Resident District LEA #:	Nonresident District LEA#:
Resident School LEA#:	Nonresident School LEA#:
Student's State Identification #:	
Application Accepted ☐	Rejected ☐
Reason for Rejection (If Applicable):	
Date Notification Sent to Parent/Guardian of Applicant:	

RESPONSE

LITTLE ROCK SCHOOL DISTRICT
501 SHERMAN STREET
LITTLE ROCK, AR 72202

OFFICE OF STUDENT SERVICES
Dr. Frederick Fields

Phone: (501) 447-2950
E-Mail: frederick.fields@lrsd.org

Attorney Davis,

Distressed Applications are reviewed on a First Come, First Serve Basis. E[redacted] Sawa's Distressed application was submitted June 12, 2015, at 11:48 a.m. His application number was #204 for Pulaski Heights Middle School. However, we had limited seats to offer based on our enrollment. Therefore, his application was reviewed and denied based on lack of seat availability.

If you need any additional information, please feel free to contact me at (501) 447-2950.

Sincerely,

Frederick L. Fields, Ed. D
Sr. Director of Student Services

ATTACHMENT 1

#204

RECEIVED
JUN 12 2015
By 4C

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION [redacted]

Student Name: E[redacted] SARA

Student Date of Birth: [redacted] Gender Male ☑ Female ☐

Grade: 5th GRADE

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☑

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☑

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: LR SCHOOL DISTRICT County Name: PULASKI

Address: TERRY

Phone:

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District and School Name: County Name:

Address: PULASKI HEIGHTS BLVD

Phone:

ATTACHMENT 1

204

PARENT OR GUARDIAN INFORMATION	
Name: Kim Smith	Home Phone: [redacted]
Address: [redacted]	Work Phone: [redacted]
[redacted], Little Rock, AR - 72211	
Parent/Guardian Signature: Kim Smith	Date: 06/12/15

Note 1: The race or ethnicity of a student shall not be used to deny the student to attend a school district of choice under the Arkansas Opportunity School Choice Act. This information is gathered for district reporting purposes only.

Note 2: Pursuant to Ark. Code Ann. § 6-18-227, reviewers of this application are hereby notified that a transfer under the Arkansas Opportunity School Choice Act shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or as otherwise provided by law.

Note 3: A school district shall not deny a student the ability to attend school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice as defined by Arkansas law and Arkansas Department of Education rules.

Note 4: Pursuant to Ark. Code Ann. § 6-18-227, a student may only transfer from a public school or school district that has been classified as a public school or school district in academic distress.

DISTRICT USE ONLY	
Date and Time Received by Nonresident District:	
Resident District LEA #:	Nonresident District LEA#:
Resident School LEA#:	Nonresident School LEA#:
Student's State Identification #:	
Application Accepted [ ]	Rejected [✓]
Reason for Rejection (If Applicable):	
Date Notification Sent to Parent/Guardian of Applicant:	

LITTLE ROCK SCHOOL DISTRICT
STUDENT REGISTRATION OFFICE
501 SHERMAN STREET
LITTLE ROCK, AR 72202

June 12, 2015

TO THE PARENT OF:
E[redacted] Sawa
[redacted]
Little Rock, AR 72211

047

ID#: [redacted]
Assigned School: Henderson Middle School
Grade(2015-16): 06*

Dear Parent:

Thank you for submitting your Arkansas Opportunity School Choice application to the Little Rock School District. I regret to inform you the school selected does not have any available seats at this time. Therefore, your child will remain at their attendance zone school. You will need to report to your assigned school for Check-In, August 3-4, 2015.

You have 10 days to appeal this decision. You may contact:

The Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, AR 72201

While we were not able to grant your choice application at this time, we would like to assure you the Little Rock School District is committed to providing a quality and equitable education at all of our schools. We solicit and look forward to your continued support and involvement in the educational process of your child.

Sincerely,

Dr. Frederick L. Fields, Senior Director of Student Services/SATS

SCHOOL DISTRESSED LOG

#	DATE	TIME	STUDENT NAME	PARENT NAME	CONTACT NUMBER	EMAIL ADDRESS	CONFIRM EMAIL ADDRESS	SCHOOL ASSIGNMENT	REQUESTED SCHOOL
196	6/10/15	11:34A	[redacted]					J.A. FAIR	LR CENTRAL
197	6/10/15	11:55a	[redacted]					J A Fair	N. Little Rock High
198	6/10/15	11:55a	[redacted]					J A Fair	N. Little Rock High
199	06/10/15	1:50 pm	[redacted]					Hall High	Parkview
200	11/6/15	9:10	[redacted]					Baseline	Wakefield
201	6-10	11:54	[redacted]					Baseline	Western Hills
202	6/10 6/11	12:10	[redacted]					LR McClellan	LR Central
203	Applica		[redacted]						
204	06/12/15	11:48	E[redacted] Santa	Kim Smith	[redacted]			HENDERSON	PULASKI HEIGHTS
205	06/12/15	2:15	[redacted]					~~Park View Vocals~~ Hall High	Park View Vocals
206	6/12/15	3:30	[redacted]					Henderson	MANN Magnet
207	6/12/15	8:22	[redacted]					Mclellan	Central
208	6/15/15	8:50	[redacted]					Baseline	Williams
209	6/15/15	9:36	[redacted]					J.A. FAIR	L.R. CENTRAL
210	6/15/15	11:20	[redacted]					MANN	Pulaski Heights

ASSOCIATED DOCUMENTS

OPPORTUNITY SCHOOL CHOICE STATUTES AND ACTS

FOCUS™ Terms Search Within Original Results (1 - 1) Go
Advanced...

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View Full

1 of 1
Return to Results | Book Browse
A.C.A. § 6-18-227 (Copy w/ Cite) Pages: **6**

A.C.A. § 6-18-227

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*** Legislation is current through the 2014 Fiscal Session and updates ***
*** received from the Arkansas Code Revision Commission through ***
*** July 2, 2014. ***

Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 2 -- Attendance

A.C.A. § 6-18-227 (2014)

6-18-227. Arkansas Opportunity Public School Choice Act of 2004.

(a) (1) This section may be referred to and cited as the "Arkansas Opportunity Public School Choice Act of 2004".

(2) (A) The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a technical education, or the world of work.

(B) The General Assembly:

(i) Recognizes that the Arkansas Constitution, as interpreted by the Supreme Court in Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002), makes education a paramount duty of the state;

(ii) Finds that the Arkansas Constitution requires the state to provide an adequate education;

(iii) Further finds that a student should not be compelled against the wishes of the parent, guardian, or the student, if the student is over eighteen (18) years of age, to remain in a public school or school district classified by the State Board of Education as a school or school district in academic distress under § 6-15-428; and

(iv) Shall make available a public school choice option in order to give a child the opportunity to attend a public school or school district not in academic distress.

(3) The General Assembly further finds that giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools, since teachers, administrators, and school district board members will have added incentives to satisfy the educational needs of the students who reside in the district.

(4) A public school choice program is hereby established to enable any student to transfer from a public school or school district classified by the state board as a public school or school district in academic distress to another public school or school district in the state that is not in academic distress, subject to the restrictions contained in this section.

(b) (1) Upon the request of a parent, guardian, or the student, if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school under this section if:

(A) The resident public school or school district has been classified by the state board as a public school or school district in academic distress; and

(B) The parent, guardian, or the student, if the student is over eighteen (18) years of age, has notified the Department of Education and both the sending and receiving school districts of the request for a transfer no later than July 30 of the first year in which the student intends to transfer.

(2) (A) (i) For the purposes of continuity of educational choice, the transfer shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or the parent, guardian, or the student, if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

(ii) A transfer under this section is effective at the beginning of the next academic year.

(B) Application for the opportunity public school choice option shall be provided by the department, shall contain a notice that a transfer under this subsection shall operate as an irrevocable choice for at least one (1) entire school year, and shall remain in force until the student completes high school as provided in this subsection except as otherwise provided by law.

(3) (A) For each student enrolled in or assigned to a public school or school district that has been classified by the state board as a public school or school district in academic distress, a school district shall:

(i) Timely notify the parent, guardian, or the student, if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available under this section; and

(ii) (a) Offer the parent, guardian, or the student, if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by the state board as a public school or school district in academic distress.

(b) The opportunity to continue attending the public school or school district that is not classified as a public school or school district in academic distress shall remain in force until the student graduates from high school.

(B) (i) The parent or guardian of a student enrolled in or assigned to a public school or school district that has been classified by the state board as a public school or school district in academic distress may choose as an alternative to enroll the student in a legally allowable public school or school district that is not classified as a public school or school district in academic distress and that is nearest to the student's legal residence.

(ii) That school or school district shall accept the student and report the student for purposes of the funding under applicable state law.

(C) (i) Students with disabilities who are eligible to receive services from the school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, and who participate in the public school choice program remain eligible to receive services from the school district as provided by federal or state law.

(ii) Any funding for the student shall be transferred to the public school or school district to which the student transfers.

(c) (1) (A) The receiving public school or school district may transport students to and from the transferring public school or school district, and the cost of transporting students shall be the responsibility of the transferring public school or school district except as provided under subdivisions (c)(1)(B) and (c)(2) of this section.

(B) A transferring public school or school district shall not be required to spend more than four hundred dollars ($400) per student per school year for transportation required under subdivision (c)(1)(A) of this section.

(2) Upon the transferring public school's or school district's removal from classification as a public school or school district in academic distress, the transportation costs shall no longer be the responsibility of the transferring public school or school district, and the student's transportation and the costs of the transportation shall be the responsibility of the parent or guardian or of the receiving public school or school district if the receiving public school or school district agrees to bear the transportation costs.

(d) (1) (A) Each school district board of directors shall offer the opportunity public school choice option within the public schools.

(B) The opportunity public school choice option shall be offered in addition to other existing choice programs.

(2) (A) (i) A school district shall not deny a student the ability to attend a school in the student's school district of choice under this section unless there is a lack of capacity at the school in the student's school district of choice.

(ii) 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.

(B) The race or ethnicity of a student shall not be used to deny a student the ability to attend a school in the student's school district of choice under this section.

(3) A student or the student's parent or guardian may appeal a school district's decision to deny admission to a school in a student's school district of choice due to lack of capacity to the State Board of Education after the student or the student's parent or guardian receives a written notice from the school district of choice that admission has been denied.

(4) The department shall promulgate rules governing the use of school capacity as a basis for denying admission under this section.

(e) (1) The provisions of this section and all student choice options created in this section shall comply with § 6-18-206(d) [repealed], (e) [repealed], and (i) [repealed] and shall not be subject to any other limitation or restriction provided by law.

(2) If any part of this section conflicts with the provisions of a federal desegregation court order applicable to a school district, the provisions of the federal desegregation court order shall govern.

(f) The department shall develop an annual report on the status of school choice and deliver the report to the state board, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.

(g) Each school district board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to rules adopted by the state board.

(h) (1) A receiving district shall accept credits toward graduation that were awarded by another district.

(2) The receiving district shall award a diploma to a nonresident student if the student meets the receiving district's graduation requirements.

(i) For purposes of determining a school district's state funding, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.

(j) (1) All school districts shall report to the department on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.

(2) The reports may be on those forms that are prescribed by the department, or the data may be submitted electronically by the district using a format authorized by the department.

(3) The department may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the department so long as thirty (30) calendar days are given between the request for the information and the published deadline.

(4) A copy of the report shall be provided to the House Committee on Education and the Senate Committee on Education.

(k) (1) Unless excused by the school for illness or other good cause:

(A) Any student participating in the opportunity public school choice option shall remain in attendance throughout the school year and shall comply fully with the school's code of conduct; and

(B) The parent or guardian of each student participating in the opportunity public school choice option shall comply fully with the receiving public school's parental involvement requirements.

(2) A participant who fails to comply with this section shall forfeit the opportunity public school choice option.

(l) (1) The maximum opportunity public school choice funds granted for an eligible student shall be calculated based on applicable state law.

(2) (A) The receiving school district shall report all students who transfer from another public school under the public school choice program.

(B) The students attending public schools pursuant to the opportunity public school choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.

(3) The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

(m) The state board shall adopt any rules necessary for the implementation of this section pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(n) A district under the public school choice program shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2003 (2nd Ex. Sess.), No. 35, § 7; 2005, No. 2121, § 22; 2011, No. 1124, §§ 1, 2; 2011, No. 1147, § 1; 2013, No. 600, §§ 7-12; 2013, No. 1138, § 45; 2013, No. 1227, § 4; 2013, No. 1429, § 11.

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OPPORTUNITY SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT
September 2013

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Rules Governing the Arkansas Opportunity Public School Choice Act.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Arkansas Opportunity Public School Choice Act as amended.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by Ark. Code Ann. §§ 6-11-105, 6-18-227, 6-15-430, 25-15-201 et seq., and Acts 600, 1227 and 1429 of 2013.

3.00 DEFINITIONS

As used in these rules:

3.01 "Department" means the Arkansas Department of Education.

3.02 "Nonresident or receiving district" means the public school district, or open-enrollment public charter school, to which a student transfers or seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.03 "Nonresident or receiving school" means the public school to which a student transfers or seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227. A nonresident or receiving school may be a public school within the resident district, a public school within a nonresident district, or an open-enrollment public charter school.

3.04 "Resident or transferring district" means the public school district in which the student resides and from which the student seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.05 "Resident or transferring school" means the public school in which the student is enrolled at the time of application and from which the student seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.06 "Public school or school district in academic distress" means 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.

4.00 GENERAL REQUIREMENTS

4.01 Upon the request of a parent or guardian, or the student if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school under these rules if:

4.01.1 The resident public school or school district has been classified by the State Board of Education as a public school or school district in academic distress; and

4.01.2 The parent or guardian, or the student if the student is over eighteen (18) years of age, has notified the Department of Education and both the transferring and receiving school districts of the request to transfer no later than July 30 of the first year in which the student intends to transfer.

4.02 Each school district board of directors shall offer the Opportunity Public School Choice option within the public schools. The Opportunity Public School Choice option shall be offered in addition to other existing choice programs.

4.03 The parent or guardian of a student, or the student if the student is over eighteen (18) years of age, 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 may choose as an alternative to enroll the student in a legally allowable public school or school district that is not classified as a public school or school district in academic distress and that is nearest to the student's legal residence. That school or school district shall accept the student and report the student for purposes of the funding under applicable state law.

4.04 Within thirty (30) days from receipt of an application from a student seeking admission under these rules, the superintendent of the nonresident district shall notify in writing the parent or guardian, or the student if the student is over eighteen (18) years of age, whether the Opportunity Public School Choice application has been accepted or rejected. The notification shall be sent via First-Class Mail to the address on the application.

4.04.1 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter the deadline by which the student must enroll in the receiving school.

4.04.2 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the specific reasons for the rejection.

4.04.3 A school district shall not deny a student the ability to transfer to a nonresident school under these rules unless there is a lack of capacity at the nonresident school.

4.04.4 A lack of capacity may be claimed by a school district only if the nonresident school has reached the maximum student-to-teacher ratio allowed under federal law, state law, the rules for standards of

accreditation, or other applicable regulations. For the purposes of these rules, a school district may claim a lack of capacity if, as of the date the application for opportunity school choice is made, ninety-five percent (95%) or more of the seats at the grade level at the nonresident school are filled.

4.04.5 The race or ethnicity of a student shall not be used to deny a student the ability to attend a nonresident school under these rules.

4.04.6 Pursuant to Section 7.00 of these rules, a parent or guardian, or the student if the student is over eighteen (18) years of age, may appeal a school district's decision to deny admission to a nonresident school to the State Board of Education after the student or the student's parent or guardian receives written notice from the nonresident district that admission has been denied.

4.04.7 If any provision of these rules conflicts with the provisions of a federal desegregation court order applicable to a school district, the provisions of the federal desegregation order shall govern.

4.05 For each student 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, a school district shall:

4.05.1 Timely notify the parent or guardian, or the student if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available under these rules; and

4.05.2 Offer the parent or guardian, or the student if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by the State Board of Education as a public school or school district in academic distress.

4.05.3 The opportunity to continue attending the public school or school district that is not classified as a public school or school district in academic distress shall remain in force until the student graduates from high school.

4.06 For the purposes of continuity of educational choice, a transfer under these rules shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until:

4.06.1 The student completes high school; or,

4.06.2 The parent or guardian, or the student if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

4.07 A transfer under these rules is effective at the beginning of the next academic year.

4.08 Students with disabilities who are eligible to receive services from the transferring school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, and who participate in the Opportunity Public School Choice Act program, shall remain eligible to receive services from the receiving school district as provided by state or federal law. Any funding for the student shall be transferred to the school district to which the student transfers.

4.09 The receiving public school or school district may transport students to and from the transferring public school or school district, and the cost of transporting students shall be the responsibility of the transferring public school or school district except as provided under Sections 4.09.1 and 4.09.2 of these rules.

4.09.1 A transferring public school or school district shall not be required to spend more than four hundred dollars ($400) per student per school year for transportation required under Section 4.09 of these rules.

4.09.2 Upon the transferring public school or school district's removal from classification as a public school or school district in academic distress, the transportation costs shall no longer be the responsibility of the transferring public school or school district, and the student's transportation and the costs of transportation shall be the responsibility of the parent or guardian or of the receiving public school or school district if the receiving public school or school district agrees to bear the transportation costs.

4.10 Unless excused by the school for illness or other good cause:

4.10.1 Any student participating in the Opportunity Public School Choice option shall remain in attendance throughout the school year and shall comply fully with the receiving school's code of conduct; and

4.10.2 The parent or guardian of each student participating in the Opportunity Public School Choice option shall comply fully with the receiving school's parental involvement requirements.

4.11 The parent or guardian shall ensure that the student participating in the opportunity public school choice option takes all statewide assessments, including, but not limited to, benchmark exams, required pursuant to Ark. Code Ann. § 6-15-433.

4.12 A student failing to comply with the requirements of these rules shall forfeit the Opportunity Public School Choice option.

4.13 A receiving district shall accept credits toward graduation that were awarded by another district.

4.14 The receiving district shall award a diploma to a student transferred under these rules if the student meets the receiving district's graduation requirements.

4.15 A district under this program shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

5.00 REPORTING REQUIREMENTS

5.01 The Department of Education shall develop an annual report on the status of school choice and deliver the report to the State Board of Education, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.

5.02 Each school district board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to these rules. The school district board of directors shall report this data through its cycle reports as prescribed by the Commissioner of Education.

5.03 All school districts shall report to the Department of Education on an annual basis the race and gender of each student identified in Section 5.02 above, and other pertinent information needed to properly monitor compliance with the provisions of these rules. The reports may be on forms prescribed by the Department of Education, or the data may be submitted electronically by the district using a format authorized by the Department of Education. The school districts shall report this data through its cycle reports as prescribed by the Commissioner of Education.

5.03.1 The Department of Education may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the Department of Education so long as thirty (30) calendar days are given between the request for the information and the published deadline.

5.03.2 A copy of the report shall be provided to the Joint Interim Committee on Education.

5.04 The receiving school district shall report all students who transfer from another public school under this program. The students attending public schools pursuant to the Opportunity Public School Choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.

6.00 FUNDING CONSIDERATIONS

6.01 For the purposes of determining a school district's state funding, the nonresident student shall be counted as a part of the average daily membership of the receiving district.

6.02 The maximum Opportunity Public School Choice funds granted for an eligible student shall be calculated based on applicable state law.

6.03 The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

7.00 APPEAL PROCEDURES

7.01 A parent or guardian, or the student if the student is over eighteen (18) years of age, may appeal a school district's decision to deny admission to a nonresident school due to a lack of capacity to the State Board of Education pursuant to this section.

7.02 The student or the student's parent or guardian (hereinafter the appealing party) must present a written appeal to the State Board of Education via certified mail, return receipt requested, no later than ten (10) calendar days, excluding weekends and legal holidays, after the appealing party receives notice of rejection from the superintendent of the nonresident district in accordance with Section 4.04 of these rules.

7.02.1 The written appeal should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.02.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the appealing party must also mail a copy of the written appeal to the superintendent of the nonresident school district.

7.02.3 In its written appeal, the appealing party shall state his or her basis for appealing the decision of the nonresident district.

7.02.4 The appealing party must submit, along with its written appeal, a copy of the rejection letter from the nonresident district.

7.02.5 Any request for a hearing before the State Board of Education must be made in the written appeal.

7.03 The nonresident district may submit, in writing, any additional information, evidence or arguments supporting its rejection of the student's application by mailing such response via certified mail, return receipt requested to the State

Board of Education no later than ten (10) days after receiving the appealing party's written appeal.

7.03.1 Any response from the nonresident district should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.03.2 Contemporaneously with the filing of the written response with the Office of the Commissioner, the nonresident district must also mail a copy of the written response to the appealing party.

7.03.3 If the appealing party did not request a hearing before the State Board of Education, the nonresident district may request a hearing in its response.

7.04 If a hearing is requested by either party, the State Board of Education shall schedule the hearing for the next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.05 If no hearing is requested by either party, the State Board of Education shall consider the appeal during its next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.06 State Board of Education Hearing Procedures

7.06.1 A staff member of the Department of Education shall introduce the agenda item.

7.06.2 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board of Education.

7.06.3 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.

7.06.4 Each party will be given twenty (20) minutes to present their cases, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

7.06.5 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board of Education as a witness during the hearing. The

State Board of Education may accept testimony by affidavit, declaration, or deposition.

7.06.6 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

7.06.7 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1, 2, 3).

7.06.8 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A, B, C).

7.06.9 The nonresident district shall have the burden of proof in proving the basis for the denial of the transfer.

7.06.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

7.06.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board of Education shall provide a written decision to the Department of Education, the appealing party, and the nonresident district within fourteen (14) calendar days of announcing its decision under this section.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District and School Name: County Name:

Address:

Phone:

ATTACHMENT 1

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Note 1: The race or ethnicity of a student shall not be used to deny the student to attend a school district of choice under the Arkansas Opportunity School Choice Act. This information is gathered for district reporting purposes only.

Note 2: Pursuant to Ark. Code Ann. § 6-18-227, reviewers of this application are hereby notified that a transfer under the Arkansas Opportunity School Choice Act shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or as otherwise provided by law.

Note 3: A school district shall not deny a student the ability to attend school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice as defined by Arkansas law and Arkansas Department of Education rules.

Note 4: Pursuant to Ark. Code Ann. § 6-18-227, a student may only transfer from a public school or school district that has been classified as a public school or school district in academic distress.

DISTRICT USE ONLY					
Date and Time Received by Nonresident District:					
Resident District LEA #:			Nonresident District LEA#:		
Resident School LEA#:			Nonresident School LEA#:		
Student's State Identification #:					
Application	Accepted		Rejected		
Reason for Rejection (If Applicable):					
Date Notification Sent to Parent/Guardian of Applicant:					

HEARING PROCEDURES

Board of Education no later than ten (10) days after receiving the appealing party's written appeal.

7.03.1 Any response from the nonresident district should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.03.2 Contemporaneously with the filing of the written response with the Office of the Commissioner, the nonresident district must also mail a copy of the written response to the appealing party.

7.03.3 If the appealing party did not request a hearing before the State Board of Education, the nonresident district may request a hearing in its response.

7.04 If a hearing is requested by either party, the State Board of Education shall schedule the hearing for the next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

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7.06.1 A staff member of the Department of Education shall introduce the agenda item.

7.06.2 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board of Education.

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7.06.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

7.06.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board of Education shall provide a written decision to the Department of Education, the appealing party, and the nonresident district within fourteen (14) calendar days of announcing its decision under this section.

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

July 21, 2015

Ms. Nicole Jackson
[redacted]
Little Rock, AR 72103

Dr. Frederick L. Fields
Little Rock School District
501 Sherman Street
Little Rock, AR 72202-2451

Re: Appeal Under the Opportunity Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is scheduled to hear the above-referenced appeal(s) on **Thursday, August 6, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on Friday, July 24, 2015**.

The Arkansas State Board of Education has requested the parent and the district attend this meeting and be available for questions.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by Ark. Code Ann. § 6-18-227 and the Arkansas Department of Education Rules Governing the Opportunity Public School Choice Act. You may find a copy of the applicable rules here:

http://www.arkansased.gov/public/userfiles/rules/Current/Opportunity_School_Choice_Rules_Final_September_2013.pdf

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

Jennifer Davis
Staff Attorney
Arkansas Department of Education
Four Capitol Mall, Room 301-A
Little Rock, AR 72201
(501) 682-4227
(501) 682-4249 (fax)
jennifer.davis@arkansas.gov

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

LITTLE ROCK SCHOOL DISTRICT
STUDENT REGISTRATION OFFICE
501 SHERMAN STREET
LITTLE ROCK, AR 72202

June 19, 2015

TO THE PARENT OF:
Katelyn Jackson 099
[redacted]
Mabelvale, AR 72103

ID#: 332522
Assigned School: J A Fair Magnet High School
Grade(2015-16): 10*

Dear Parent:

Thank you for submitting your Arkansas Opportunity School Choice application to the Little Rock School Distric I regret to inform you the school selected does not have any available seats at this time. Therefore, your child will remain at their attendance zone school. You will need to report to your assigned school for Check-In, August 3-4, 2015.

You have 10 days to appeal this decision. You may contact:

The Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, AR 72201

While we were not able to grant your choice application at this time, we would like to assure you the Little Rock School District is committed to providing a quality and equitable education at all of our schools. We solicit and look forward to your continued support and involvement in the educational process of your child.

Sincerely,

Dr. Frederick L. Fields, Senior Director of Student Services/SATS

RECEIVED
ATTORNEY'S OFFICE
JUN 30 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

ATTACHMENT 1

RECEIVED
JUN 17 REC'D
BY

#237

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION:

Student Name: K[redacted] Jackson

Student Date of Birth: [redacted] Gender: Male ☐ Female ☒

Grade: 10th

Does the applicant require special needs or programs? Yes ☐ No ☒

Is applicant currently under expulsion? Yes ☐ No ☒

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☒

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: Ja Fair High School County Name: Pulaski

Address:

Phone:

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District and School Name: (Dance) Parkview High School County Name: Pulaski

Address:

Phone:

06-30-2015 10:57 DNRAUTOCLINIC-AUDIO 5013134244 PAGE1

ATTACHMENT 1

PARENT OR GUARDIAN INFORMATION

Name: Nicole Jackson	Home Phone: [redacted]
Address: [redacted]	Work Phone: [redacted]
Parent/Guardian Signature	Date: 6.17.15

Note 1: The race or ethnicity of a student shall not be used to deny the student to attend a school district of choice under the Arkansas Opportunity School Choice Act. This information is gathered for district reporting purposes only.

Note 2: Pursuant to Ark. Code Ann. § 6-18-227, reviewers of this application are hereby notified that a transfer under the Arkansas Opportunity School Choice Act shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or as otherwise provided by law.

Note 3: A school district shall not deny a student the ability to attend school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice as defined by Arkansas law and Arkansas Department of Education rules.

Note 4: Pursuant to Ark. Code Ann. § 6-18-227, a student may only transfer from a public school or school district that has been classified as a public school or school district in academic distress.

DISTRICT USE ONLY

Date and Time Received by Nonresident District:	
Resident District LEA #:	Nonresident District LEA#:
Resident School LEA#:	Nonresident School LEA#:
Student's State Identification #:	
Application Accepted ☐	Rejected ☐
Reason for Rejection (If Applicable):	
Date Notification Sent to Parent/Guardian of Applicant:	

06-30-2015 10:58 DNRAUTOCLINIC-AUDIO 5015154244 PAGE2

OPTIONAL ENROLLMENT REQUEST FORM

HIGH SCHOOL (Grades 9th-12th)

Student ID. # _____
Date Rec'd: 6/17
Rec'd. By: _____

Directions:

- Please read all information before completing this form.
- The Student Registration Office will be responsible for all optional enrollment assignments.
- If the demand exceeds supply, a random scramble selection process will be used to fill vacancies.
- Students who are not selected will have their names placed on a waiting list.

(PLEASE PRINT OR TYPE) ☐ Check if this is a **NEW** address. If so, the parent **MUST** process a Change of Address Form.

Student's Legal Name: K[redacted] Jackson

Street Address: [redacted] **City:** Mabelvale **Zip:** 72103

Date of Birth: Month [redacted] **Day** [redacted] **Year** [redacted] **Gender:** ___ **Male** X **Female**

Home/Cell Phone: [redacted] **Parent's Work Phone:** [redacted]

Current School Assignment J.A. Fair **Grade Level** 10th

PARENTS MAY MAKE UP TO THREE (3) CHOICES FROM THE OPTIONS LISTED BELOW. RANK YOUR CHOICES IN NUMERICAL ORDER (1ST, 2ND AND 3RD). YOU ARE NOT REQUIRED TO USE ALL OF YOUR CHOICES.

_____ Central High International Studies
_____ Central High Gifted and Talented **(Must be identified as Gifted and Talented)***
_____ Parkview Arts Band **(Must have at least 1 year Band experience – must pass an audition to qualify)**
1X Parkview Arts Dance
_____ Parkview Arts Orchestra **(Must have at least 1 year Orchestra experience-must pass an audition to qualify)**
3 Parkview Science
2 Parkview Arts Speech & Drama – (gender balanced)
_____ Parkview Arts Visual Arts
_____ Parkview Arts Vocal Music

SIBLINGS ENROLLED IN HIGH SCHOOL MAGNET/SPECIALITY ONLY:

Student Name	School

*** If the student is not currently enrolled but lives within the Little Rock School District boundaries, the parent MUST provide Gifted and Talented documentation before submitting application.**

NOTE: **THIS FORM IS TO BE USED FOR STUDENTS WHO RESIDE IN *LRSD ONLY*.**

I understand if I wish to withdraw this application for any reason, I may do so prior to assignment of my child. I agree if my request is approved, my child MUST remain in the program for a minimum of one (1) school semester.

Parent Signature Mildred Jackson Harris **Date** 6 17.15

White Copy – Student Assignment Office

Yellow Copy – Parent

RESPONSE

ATTACHMENT 1

RECEIVED JUN 17 REC'D By

#237

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION

033522

Student Name: K[redacted] Jackson

Student Date of Birth: [redacted] Gender Male ☐ Female ☒

Grade: 10th

Does the applicant require special needs or programs? Yes ☐ No ☒

Is applicant currently under expulsion? Yes ☐ No ☒

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☒

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: Ja. Fair High School County Name: Pulaski

Address:

Phone:

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District and School Name: (Dance) Parkview High School County Name: Pulaski

Address:

Phone:

ATTACHMENT 1

PARENT OR GUARDIAN INFORMATION	
Name: Nicole Jackson	Home Phone: [redacted]
Address: [redacted]	Work Phone: [redacted]
Parent/Guardian Signature	Date: 6.17.15

Note 1: The race or ethnicity of a student shall not be used to deny the student to attend a school district of choice under the Arkansas Opportunity School Choice Act. This information is gathered for district reporting purposes only.

Note 2: Pursuant to Ark. Code Ann. § 6-18-227, reviewers of this application are hereby notified that a transfer under the Arkansas Opportunity School Choice Act shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or as otherwise provided by law.

Note 3: A school district shall not deny a student the ability to attend school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice as defined by Arkansas law and Arkansas Department of Education rules.

Note 4: Pursuant to Ark. Code Ann. § 6-18-227, a student may only transfer from a public school or school district that has been classified as a public school or school district in academic distress.

DISTRICT USE ONLY	
Date and Time Received by Nonresident District:	
Resident District LEA #:	Nonresident District LEA#:
Resident School LEA#:	Nonresident School LEA#:
Student's State Identification #:	
Application Accepted [ ]	Rejected [✓]
Reason for Rejection (If Applicable): Lack of Space	
Date Notification Sent to Parent/Guardian of Applicant: JUN 19 2015	

SCHOOL DISTRESSED LOG

#	DATE	TIME	STUDENT NAME	PARENT NAME	CONTACT NUMBER	EMAIL ADDRESS	CONFIRM EMAIL ADDRESS	SCHOOL ASSIGNMENT	REQUESTED SCHOOL
226	6/6/15	0942	[redacted]					Hall	Parkview
227	6/6/2015	11:47						Cardale	Bellale Maybelle
228	6/6/2015	12:06						~~Horace Mann Arts~~ Clover Dale	Horace Mann Arts
229	6/6/15	12:24						McClellan GPSAS GDI	Central
230	6/10/15	1:25						HALL	Central
231	6/10/15	135						Hall	PARKVIEW SCIENCE!
232	6/16/15	1:57						Baseline	Wakefield
233	6/16/15	1:58						m. Baseline	Wakefield
234	6/16/15	4:42						McClellan	Central
235	~~6/16/15~~	~~4:42~~						mcclellan	~~Central~~
236	6/16/15	4:42						mcclellan	Central
237	6/17/15	9:30	K[redacted] Jackson	Nicole Jackson				J.A. Fair	PARKVIEW
238	6/17/15	937						Henderson	Pulaski Heights
239	6/17/15	11:14						McClellan	Central
240	6/17/15	12:10						McClellan	Parkview

LITTLE ROCK SCHOOL DISTRICT
501 SHERMAN STREET
LITTLE ROCK, AR 72202

OFFICE OF STUDENT SERVICES
Dr. Frederick Fields

Phone: (501) 447-2950
E-Mail: frederick.fields@lrsd.org

Dear Attorney Davis,

Distress Applications are reviewed on a First Come, First Serve Basis. K[redacted] Jacksons' distress application was submitted June 17, 2015, at 9:30 a.m. Her application number was 237 for Parkview High School -Dance. However, we had limited seats to offer based on our enrollment. Therefore, her application was reviewed and denied based on lack of seat availability.

If you need any additional information, please feel free to contact me at (501)447-2950.

Sincerely,

Frederick L. Fields, Ed. D
Sr. Director of Student Services

ASSOCIATED DOCUMENTS

OPPORTUNITY SCHOOL CHOICE STATUTES AND ACTS

FOCUS™ Terms Search Within Original Results (1 - 1) Go
Advanced...

View Tutorial

View Full

1 of 1
Return to Results | Book Browse
A.C.A. § 6-18-227 (Copy w/ Cite) Pages: **6**

A.C.A. § 6-18-227

Arkansas Code of 1987 Annotated Official Edition
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*** Legislation is current through the 2014 Fiscal Session and updates ***
*** received from the Arkansas Code Revision Commission through ***
*** July 2, 2014. ***

Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 2 -- Attendance

A.C.A. § 6-18-227 (2014)

6-18-227. Arkansas Opportunity Public School Choice Act of 2004.

(a) (1) This section may be referred to and cited as the "Arkansas Opportunity Public School Choice Act of 2004".

(2) (A) The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a technical education, or the world of work.

(B) The General Assembly:

(i) Recognizes that the Arkansas Constitution, as interpreted by the Supreme Court in Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002), makes education a paramount duty of the state;

(ii) Finds that the Arkansas Constitution requires the state to provide an adequate education;

(iii) Further finds that a student should not be compelled against the wishes of the parent, guardian, or the student, if the student is over eighteen (18) years of age, to remain in a public school or school district classified by the State Board of Education as a school or school district in academic distress under § 6-15-428; and

(iv) Shall make available a public school choice option in order to give a child the opportunity to attend a public school or school district not in academic distress.

(3) The General Assembly further finds that giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools, since teachers, administrators, and school district board members will have added incentives to satisfy the educational needs of the students who reside in the district.

(4) A public school choice program is hereby established to enable any student to transfer from a public school or school district classified by the state board as a public school or school district in academic distress to another public school or school district in the state that is not in academic distress, subject to the restrictions contained in this section.

(b) (1) Upon the request of a parent, guardian, or the student, if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school under this section if:

(A) The resident public school or school district has been classified by the state board as a public school or school district in academic distress; and

(B) The parent, guardian, or the student, if the student is over eighteen (18) years of age, has notified the Department of Education and both the sending and receiving school districts of the request for a transfer no later than July 30 of the first year in which the student intends to transfer.

(2) (A) (i) For the purposes of continuity of educational choice, the transfer shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or the parent, guardian, or the student, if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

(ii) A transfer under this section is effective at the beginning of the next academic year.

(B) Application for the opportunity public school choice option shall be provided by the department, shall contain a notice that a transfer under this subsection shall operate as an irrevocable choice for at least one (1) entire school year, and shall remain in force until the student completes high school as provided in this subsection except as otherwise provided by law.

(3) (A) For each student enrolled in or assigned to a public school or school district that has been classified by the state board as a public school or school district in academic distress, a school district shall:

(i) Timely notify the parent, guardian, or the student, if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available under this section; and

(ii) (a) Offer the parent, guardian, or the student, if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by the state board as a public school or school district in academic distress.

(b) The opportunity to continue attending the public school or school district that is not classified as a public school or school district in academic distress shall remain in force until the student graduates from high school.

(B) (i) The parent or guardian of a student enrolled in or assigned to a public school or school district that has been classified by the state board as a public school or school district in academic distress may choose as an alternative to enroll the student in a legally allowable public school or school district that is not classified as a public school or school district in academic distress and that is nearest to the student's legal residence.

(ii) That school or school district shall accept the student and report the student for purposes of the funding under applicable state law.

(C) (i) Students with disabilities who are eligible to receive services from the school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, and who participate in the public school choice program remain eligible to receive services from the school district as provided by federal or state law.

(ii) Any funding for the student shall be transferred to the public school or school district to which the student transfers.

(c) (1) (A) The receiving public school or school district may transport students to and from the transferring public school or school district, and the cost of transporting students shall be the responsibility of the transferring public school or school district except as provided under subdivisions (c)(1)(B) and (c)(2) of this section.

(B) A transferring public school or school district shall not be required to spend more than four hundred dollars ($400) per student per school year for transportation required under subdivision (c)(1)(A) of this section.

(2) Upon the transferring public school's or school district's removal from classification as a public school or school district in academic distress, the transportation costs shall no longer be the responsibility of the transferring public school or school district, and the student's transportation and the costs of the transportation shall be the responsibility of the parent or guardian or of the receiving public school or school district if the receiving public school or school district agrees to bear the transportation costs.

(d) (1) (A) Each school district board of directors shall offer the opportunity public school choice option within the public schools.

(B) The opportunity public school choice option shall be offered in addition to other existing choice programs.

(2) (A) (i) A school district shall not deny a student the ability to attend a school in the student's school district of choice under this section unless there is a lack of capacity at the school in the student's school district of choice.

(ii) 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.

(B) The race or ethnicity of a student shall not be used to deny a student the ability to attend a school in the student's school district of choice under this section.

(3) A student or the student's parent or guardian may appeal a school district's decision to deny admission to a school in a student's school district of choice due to lack of capacity to the State Board of Education after the student or the student's parent or guardian receives a written notice from the school district of choice that admission has been denied.

(4) The department shall promulgate rules governing the use of school capacity as a basis for denying admission under this section.

(e) (1) The provisions of this section and all student choice options created in this section shall comply with § 6-18-206(d) [repealed], (e) [repealed], and (i) [repealed] and shall not be subject to any other limitation or restriction provided by law.

(2) If any part of this section conflicts with the provisions of a federal desegregation court order applicable to a school district, the provisions of the federal desegregation court order shall govern.

(f) The department shall develop an annual report on the status of school choice and deliver the report to the state board, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.

(g) Each school district board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to rules adopted by the state board.

(h) (1) A receiving district shall accept credits toward graduation that were awarded by another district.

(2) The receiving district shall award a diploma to a nonresident student if the student meets the receiving district's graduation requirements.

(i) For purposes of determining a school district's state funding, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.

(j) (1) All school districts shall report to the department on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.

(2) The reports may be on those forms that are prescribed by the department, or the data may be submitted electronically by the district using a format authorized by the department.

(3) The department may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the department so long as thirty (30) calendar days are given between the request for the information and the published deadline.

(4) A copy of the report shall be provided to the House Committee on Education and the Senate Committee on Education.

(k) (1) Unless excused by the school for illness or other good cause:

(A) Any student participating in the opportunity public school choice option shall remain in attendance throughout the school year and shall comply fully with the school's code of conduct; and

(B) The parent or guardian of each student participating in the opportunity public school choice option shall comply fully with the receiving public school's parental involvement requirements.

(2) A participant who fails to comply with this section shall forfeit the opportunity public school choice option.

(l) (1) The maximum opportunity public school choice funds granted for an eligible student shall be calculated based on applicable state law.

(2) (A) The receiving school district shall report all students who transfer from another public school under the public school choice program.

(B) The students attending public schools pursuant to the opportunity public school choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.

(3) The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

(m) The state board shall adopt any rules necessary for the implementation of this section pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(n) A district under the public school choice program shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2003 (2nd Ex. Sess.), No. 35, § 7; 2005, No. 2121, § 22; 2011, No. 1124, §§ 1, 2; 2011, No. 1147, § 1; 2013, No. 600, §§ 7-12; 2013, No. 1138, § 45; 2013, No. 1227, § 4; 2013, No. 1429, § 11.

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OPPORTUNITY SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT
September 2013

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Rules Governing the Arkansas Opportunity Public School Choice Act.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Arkansas Opportunity Public School Choice Act as amended.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by Ark. Code Ann. §§ 6-11-105, 6-18-227, 6-15-430, 25-15-201 et seq., and Acts 600, 1227 and 1429 of 2013.

3.00 DEFINITIONS

As used in these rules:

3.01 "Department" means the Arkansas Department of Education.

3.02 "Nonresident or receiving district" means the public school district, or open-enrollment public charter school, to which a student transfers or seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.03 "Nonresident or receiving school" means the public school to which a student transfers or seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227. A nonresident or receiving school may be a public school within the resident district, a public school within a nonresident district, or an open-enrollment public charter school.

3.04 "Resident or transferring district" means the public school district in which the student resides and from which the student seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.05 "Resident or transferring school" means the public school in which the student is enrolled at the time of application and from which the student seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.06 "Public school or school district in academic distress" means 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.

4.00 GENERAL REQUIREMENTS

4.01 Upon the request of a parent or guardian, or the student if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school under these rules if:

4.01.1 The resident public school or school district has been classified by the State Board of Education as a public school or school district in academic distress; and

4.01.2 The parent or guardian, or the student if the student is over eighteen (18) years of age, has notified the Department of Education and both the transferring and receiving school districts of the request to transfer no later than July 30 of the first year in which the student intends to transfer.

4.02 Each school district board of directors shall offer the Opportunity Public School Choice option within the public schools. The Opportunity Public School Choice option shall be offered in addition to other existing choice programs.

4.03 The parent or guardian of a student, or the student if the student is over eighteen (18) years of age, 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 may choose as an alternative to enroll the student in a legally allowable public school or school district that is not classified as a public school or school district in academic distress and that is nearest to the student's legal residence. That school or school district shall accept the student and report the student for purposes of the funding under applicable state law.

4.04 Within thirty (30) days from receipt of an application from a student seeking admission under these rules, the superintendent of the nonresident district shall notify in writing the parent or guardian, or the student if the student is over eighteen (18) years of age, whether the Opportunity Public School Choice application has been accepted or rejected. The notification shall be sent via First-Class Mail to the address on the application.

4.04.1 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter the deadline by which the student must enroll in the receiving school.

4.04.2 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the specific reasons for the rejection.

4.04.3 A school district shall not deny a student the ability to transfer to a nonresident school under these rules unless there is a lack of capacity at the nonresident school.

4.04.4 A lack of capacity may be claimed by a school district only if the nonresident school has reached the maximum student-to-teacher ratio allowed under federal law, state law, the rules for standards of

accreditation, or other applicable regulations. For the purposes of these rules, a school district may claim a lack of capacity if, as of the date the application for opportunity school choice is made, ninety-five percent (95%) or more of the seats at the grade level at the nonresident school are filled.

4.04.5 The race or ethnicity of a student shall not be used to deny a student the ability to attend a nonresident school under these rules.

4.04.6 Pursuant to Section 7.00 of these rules, a parent or guardian, or the student if the student is over eighteen (18) years of age, may appeal a school district's decision to deny admission to a nonresident school to the State Board of Education after the student or the student's parent or guardian receives written notice from the nonresident district that admission has been denied.

4.04.7 If any provision of these rules conflicts with the provisions of a federal desegregation court order applicable to a school district, the provisions of the federal desegregation order shall govern.

4.05 For each student 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, a school district shall:

4.05.1 Timely notify the parent or guardian, or the student if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available under these rules; and

4.05.2 Offer the parent or guardian, or the student if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by the State Board of Education as a public school or school district in academic distress.

4.05.3 The opportunity to continue attending the public school or school district that is not classified as a public school or school district in academic distress shall remain in force until the student graduates from high school.

4.06 For the purposes of continuity of educational choice, a transfer under these rules shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until:

4.06.1 The student completes high school; or,

4.06.2 The parent or guardian, or the student if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

4.07 A transfer under these rules is effective at the beginning of the next academic year.

4.08 Students with disabilities who are eligible to receive services from the transferring school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, and who participate in the Opportunity Public School Choice Act program, shall remain eligible to receive services from the receiving school district as provided by state or federal law. Any funding for the student shall be transferred to the school district to which the student transfers.

4.09 The receiving public school or school district may transport students to and from the transferring public school or school district, and the cost of transporting students shall be the responsibility of the transferring public school or school district except as provided under Sections 4.09.1 and 4.09.2 of these rules.

4.09.1 A transferring public school or school district shall not be required to spend more than four hundred dollars ($400) per student per school year for transportation required under Section 4.09 of these rules.

4.09.2 Upon the transferring public school or school district's removal from classification as a public school or school district in academic distress, the transportation costs shall no longer be the responsibility of the transferring public school or school district, and the student's transportation and the costs of transportation shall be the responsibility of the parent or guardian or of the receiving public school or school district if the receiving public school or school district agrees to bear the transportation costs.

4.10 Unless excused by the school for illness or other good cause:

4.10.1 Any student participating in the Opportunity Public School Choice option shall remain in attendance throughout the school year and shall comply fully with the receiving school's code of conduct; and

4.10.2 The parent or guardian of each student participating in the Opportunity Public School Choice option shall comply fully with the receiving school's parental involvement requirements.

4.11 The parent or guardian shall ensure that the student participating in the opportunity public school choice option takes all statewide assessments, including, but not limited to, benchmark exams, required pursuant to Ark. Code Ann. § 6-15-433.

4.12 A student failing to comply with the requirements of these rules shall forfeit the Opportunity Public School Choice option.

4.13 A receiving district shall accept credits toward graduation that were awarded by another district.

4.14 The receiving district shall award a diploma to a student transferred under these rules if the student meets the receiving district's graduation requirements.

4.15 A district under this program shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

5.00 REPORTING REQUIREMENTS

5.01 The Department of Education shall develop an annual report on the status of school choice and deliver the report to the State Board of Education, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.

5.02 Each school district board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to these rules. The school district board of directors shall report this data through its cycle reports as prescribed by the Commissioner of Education.

5.03 All school districts shall report to the Department of Education on an annual basis the race and gender of each student identified in Section 5.02 above, and other pertinent information needed to properly monitor compliance with the provisions of these rules. The reports may be on forms prescribed by the Department of Education, or the data may be submitted electronically by the district using a format authorized by the Department of Education. The school districts shall report this data through its cycle reports as prescribed by the Commissioner of Education.

5.03.1 The Department of Education may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the Department of Education so long as thirty (30) calendar days are given between the request for the information and the published deadline.

5.03.2 A copy of the report shall be provided to the Joint Interim Committee on Education.

5.04 The receiving school district shall report all students who transfer from another public school under this program. The students attending public schools pursuant to the Opportunity Public School Choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.

6.00 FUNDING CONSIDERATIONS

6.01 For the purposes of determining a school district's state funding, the nonresident student shall be counted as a part of the average daily membership of the receiving district.

6.02 The maximum Opportunity Public School Choice funds granted for an eligible student shall be calculated based on applicable state law.

6.03 The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

7.00 APPEAL PROCEDURES

7.01 A parent or guardian, or the student if the student is over eighteen (18) years of age, may appeal a school district's decision to deny admission to a nonresident school due to a lack of capacity to the State Board of Education pursuant to this section.

7.02 The student or the student's parent or guardian (hereinafter the appealing party) must present a written appeal to the State Board of Education via certified mail, return receipt requested, no later than ten (10) calendar days, excluding weekends and legal holidays, after the appealing party receives notice of rejection from the superintendent of the nonresident district in accordance with Section 4.04 of these rules.

7.02.1 The written appeal should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.02.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the appealing party must also mail a copy of the written appeal to the superintendent of the nonresident school district.

7.02.3 In its written appeal, the appealing party shall state his or her basis for appealing the decision of the nonresident district.

7.02.4 The appealing party must submit, along with its written appeal, a copy of the rejection letter from the nonresident district.

7.02.5 Any request for a hearing before the State Board of Education must be made in the written appeal.

7.03 The nonresident district may submit, in writing, any additional information, evidence or arguments supporting its rejection of the student's application by mailing such response via certified mail, return receipt requested to the State

Board of Education no later than ten (10) days after receiving the appealing party's written appeal.

7.03.1 Any response from the nonresident district should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.03.2 Contemporaneously with the filing of the written response with the Office of the Commissioner, the nonresident district must also mail a copy of the written response to the appealing party.

7.03.3 If the appealing party did not request a hearing before the State Board of Education, the nonresident district may request a hearing in its response.

7.04 If a hearing is requested by either party, the State Board of Education shall schedule the hearing for the next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.05 If no hearing is requested by either party, the State Board of Education shall consider the appeal during its next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.06 State Board of Education Hearing Procedures

7.06.1 A staff member of the Department of Education shall introduce the agenda item.

7.06.2 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board of Education.

7.06.3 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.

7.06.4 Each party will be given twenty (20) minutes to present their cases, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

7.06.5 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board of Education as a witness during the hearing. The

State Board of Education may accept testimony by affidavit, declaration, or deposition.

7.06.6 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

7.06.7 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1, 2, 3).

7.06.8 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A, B, C).

7.06.9 The nonresident district shall have the burden of proof in proving the basis for the denial of the transfer.

7.06.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

7.06.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board of Education shall provide a written decision to the Department of Education, the appealing party, and the nonresident district within fourteen (14) calendar days of announcing its decision under this section.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District and School Name: County Name:

Address:

Phone:

ATTACHMENT 1

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Note 1: The race or ethnicity of a student shall not be used to deny the student to attend a school district of choice under the Arkansas Opportunity School Choice Act. This information is gathered for district reporting purposes only.

Note 2: Pursuant to Ark. Code Ann. § 6-18-227, reviewers of this application are hereby notified that a transfer under the Arkansas Opportunity School Choice Act shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or as otherwise provided by law.

Note 3: A school district shall not deny a student the ability to attend school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice as defined by Arkansas law and Arkansas Department of Education rules.

Note 4: Pursuant to Ark. Code Ann. § 6-18-227, a student may only transfer from a public school or school district that has been classified as a public school or school district in academic distress.

DISTRICT USE ONLY					
Date and Time Received by Nonresident District:					
Resident District LEA #:			Nonresident District LEA#:		
Resident School LEA#:			Nonresident School LEA#:		
Student's State Identification #:					
Application	Accepted		Rejected		
Reason for Rejection (If Applicable):					
Date Notification Sent to Parent/Guardian of Applicant:					

HEARING PROCEDURES

Board of Education no later than ten (10) days after receiving the appealing party's written appeal.

7.03.1 Any response from the nonresident district should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.03.2 Contemporaneously with the filing of the written response with the Office of the Commissioner, the nonresident district must also mail a copy of the written response to the appealing party.

7.03.3 If the appealing party did not request a hearing before the State Board of Education, the nonresident district may request a hearing in its response.

7.04 If a hearing is requested by either party, the State Board of Education shall schedule the hearing for the next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.05 If no hearing is requested by either party, the State Board of Education shall consider the appeal during its next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.06 State Board of Education Hearing Procedures

7.06.1 A staff member of the Department of Education shall introduce the agenda item.

7.06.2 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board of Education.

7.06.3 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.

7.06.4 Each party will be given twenty (20) minutes to present their cases, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

7.06.5 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board of Education as a witness during the hearing. The

State Board of Education may accept testimony by affidavit, declaration, or deposition.

7.06.6 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

7.06.7 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1, 2, 3).

7.06.8 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A, B, C).

7.06.9 The nonresident district shall have the burden of proof in proving the basis for the denial of the transfer.

7.06.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

7.06.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board of Education shall provide a written decision to the Department of Education, the appealing party, and the nonresident district within fourteen (14) calendar days of announcing its decision under this section.

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

July 21, 2015

Ms. Anita Williams
[redacted]
Little Rock, AR 72205

Dr. Frederick L. Fields
Little Rock School District
501 Sherman Street
Little Rock, AR 72202-2451

Re: Appeal Under the Opportunity Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is scheduled to hear the above-referenced appeal(s) on **Thursday, August 6, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on Friday, July 24, 2015**.

The Arkansas State Board of Education has requested the parent and the district attend this meeting and be available for questions.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by Ark. Code Ann. § 6-18-227 and the Arkansas Department of Education Rules Governing the Opportunity Public School Choice Act. You may find a copy of the applicable rules here:

http://www.arkansased.gov/public/userfiles/rules/Current/Opportunity_School_Choice_Rules_Final_September_2013.pdf

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

Jennifer Davis
Staff Attorney
Arkansas Department of Education
Four Capitol Mall, Room 301-A
Little Rock, AR 72201
(501) 682-4227
(501) 682-4249 (fax)
jennifer.davis@arkansas.gov

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

To whom this may concern:

RECEIVED
COMMISSIONER'S OFFICE
JUL 6 2015
DEPARTMENT OF EDUCATION

J[redacted] Burgie

ID#: [redacted]

Assigned School: Hall High

Grade 11th

I am writing this letter, because I am not happy with the school that my child is assigned. On June 10th 2014 I lost everything due to a fire at my Apartments. Due to the circumstances I had to find a place to live. Jayden had to move to Mesquite Texas for a while. J[redacted] has never been away from me and I have never been away from him. This was a very hard and difficult time. Things started to turn around in late January, so I started getting things ready for the transition. J[redacted] moved back to Arkansas with me and he was assigned to Hall High. I was not happy with that. I didn't pull Jayden out of school because I wanted to try something new. We lost everything and it was a lot easier getting back on my feet with him living with his dad. Jayden didn't have a chose in this because we were homeless. I know that we lost our spot at Parkview but under the circumstances I feel as though we should at least been given a chance to due to the nature of what happened. It's hard enough trying to keep things together after something as hard and painful as losing everything you own and having to live with your Dad. I am requesting that J[redacted] returns to Parkview High or Central High.

Please understand that J[redacted] only left Parkview, because an act of nature, which was completely of our hands we had no control of the situation. I have tried to explain this to the staff that's located on Sherman St. I filled out papers, after papers still nothing. I am just asking for some understanding and that my requests for another school.

If any other questions please don't hesitate to call me or email.

Anita Williams [redacted]

[redacted]

Anita Williams

Anita Williams

RECEIVED
ATTORNEY'S OFFICE
JUL 06 2015
DEPARTMENT OF EDUCATION
GENERAL DIVISION

LITTLE ROCK SCHOOL DISTRICT
STUDENT REGISTRATION OFFICE
501 SHERMAN STREET
LITTLE ROCK, AR 72202

June 19, 2015

TO THE PARENT OF:
J[redacted] Burgie 002
[redacted]
Little Rock, AR 72205

ID#: [redacted]
Assigned School: Hall High School
Grade(2015-16): 11*

Dear Parent:

Thank you for submitting your Arkansas Opportunity School Choice application to the Little Rock School District I regret to inform you the school selected does not have any available seats at this time. Therefore, your child will remain at their attendance zone school. You will need to report to your assigned school for Check-In, August 3-4, 2015.

You have 10 days to appeal this decision. You may contact:

The Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, AR 72201

While we were not able to grant your choice application at this time, we would like to assure you the Little Rock School District is committed to providing a quality and equitable education at all of our schools. We solicit and look forward to your continued support and involvement in the educational process of your child.

Sincerely,

Dr. Frederick L. Fields, Senior Director of Student Services/SATS

Attn Anita Williams

HOUSING AUTHORITY OF THE CITY OF LITTLE ROCK
100 South Arch St. • Little Rock, AR 72201 • (501) 340-4821 • Fax (501) 340-4845

UNITED STATES POSTAGE
PITNEY BOWES
02 1P $ 000.48⁰
0000822859 JUN 29 2015
MAILED FROM ZIP CODE 72202

The Office of Commissioner
Attn: Opportunity School
Choice Appeal
Four Capitol Mall
Little Rock, AR 72201

RESPONSE

LITTLE ROCK SCHOOL DISTRICT
501 SHERMAN STREET
LITTLE ROCK, AR 72202

OFFICE OF STUDENT SERVICES
Dr. Frederick Fields

Phone: (501) 447-2950
E-Mail: frederick.fields@lrsd.org

July 14, 2015

Dear Attorney Davis,

Distressed Applications are reviewed on a First Come, First Serve Basis. Parents are given only one choice. J[redacted] Burgie's distressed application was submitted June 15, 2015, at 3:31 p.m. His application number was 225 for Parkview High School **only**. However, we had limited seats to offer based on our enrollment. Therefore, his application was reviewed and denied based on lack of seat availability.

If you need any additional information, please feel free to contact me at (501)447-2950.

Sincerely,

Frederick L. Fields

Frederick L. Fields, Ed. D
Sr. Director of Student Services

RECEIVED
JUN 15 REC'D
By yc

ATTACHMENT 1

#225

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION 317750

Student Name: J[redacted] Burgie

Stude[redacted] Gender Male ☒ Female ☐

Grade: 10th

Does the applicant require special needs or programs? Yes ☐ No ☒

Is applicant currently under expulsion? Yes ☐ No ☒

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☒

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: Hall High County Name:

Address:

Phone:

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District and School Name: Parkview High Arts County Name:

Address:

Phone:

ATTACHMENT 1

PARENT OR GUARDIAN INFORMATION	
Name: Shita Williams	Home Phone: [redacted]
Address: [redacted]	Phone: [redacted]
[redacted] LR, AR 72205	
Parent/Guardian Signature: Shita Williams	Date: 6-15-15

Note 1: The race or ethnicity of a student shall not be used to deny the student to attend a school district of choice under the Arkansas Opportunity School Choice Act. This information is gathered for district reporting purposes only.

Note 2: Pursuant to Ark. Code Ann. § 6-18-227, reviewers of this application are hereby notified that a transfer under the Arkansas Opportunity School Choice Act shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or as otherwise provided by law.

Note 3: A school district shall not deny a student the ability to attend school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice as defined by Arkansas law and Arkansas Department of Education rules.

Note 4: Pursuant to Ark. Code Ann. § 6-18-227, a student may only transfer from a public school or school district that has been classified as a public school or school district in academic distress.

DISTRICT USE ONLY	
Date and Time Received by Nonresident District:	
Resident District LEA #:	Nonresident District LEA#:
Resident School LEA#:	Nonresident School LEA#:
Student's State Identification #:	
Application Accepted [ ]	Rejected [✓]
Reason for Rejection (If Applicable): Lack of Space	
Date Notification Sent to Parent/Guardian of Applicant: JUN 19 2015	

SCHOOL DISTRESSED LOG

#	DATE	TIME	STUDENT NAME	PARENT NAME	CONTACT NUMBER	EMAIL ADDRESS	CONFIRM EMAIL ADDRESS	SCHOOL ASSIGNMENT	REQUESTED SCHOOL
211	6/12/15	11:39	[redacted]					NAH High	LRCH
212	6/15/15	9:57						JA Fair	Joe T. Robinson
213	6/15/15	9:57						JA Fair	Joe T. Robinson
214	6-15-15	10:26						JA Fair	Parkview
215	6-15-15	11:50						Henderson	Pulaski Heights middle
216	6-15-15	12:00						Henderson	Pulaski Heights
217	6.15	1:05						McClellan	Central
218	6-15	1:30						King	Dunbar
219	6-15	1:30						King	Dunbar
220	6-15	2:01						Henderson	MANN Scie
221	6/15	3:12						Cloverdale	Horace Mann AR
222	6/15	3:28						JA Fair	Parkview - Dona
223	6/15	3:28						cloverdale	Horace Mann - A
224	6/15	3:28						Cloverdale	Horace Mann - A
225	6.15	3:31	J[redacted] Burgie	Akita Williams	[redacted]			Hall	Parkview

ASSOCIATED DOCUMENTS

OPPORTUNITY SCHOOL CHOICE STATUTES AND ACTS

FOCUS™ Terms Search Within Original Results (1 - 1) Go
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View Full

1 of 1
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A.C.A. § 6-18-227 (Copy w/ Cite) Pages: **6**

A.C.A. § 6-18-227

Arkansas Code of 1987 Annotated Official Edition
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*** Legislation is current through the 2014 Fiscal Session and updates ***
*** received from the Arkansas Code Revision Commission through ***
*** July 2, 2014. ***

Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 2 -- Attendance

A.C.A. § 6-18-227 (2014)

6-18-227. Arkansas Opportunity Public School Choice Act of 2004.

(a) (1) This section may be referred to and cited as the "Arkansas Opportunity Public School Choice Act of 2004".

(2) (A) The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a technical education, or the world of work.

(B) The General Assembly:

(i) Recognizes that the Arkansas Constitution, as interpreted by the Supreme Court in Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002), makes education a paramount duty of the state;

(ii) Finds that the Arkansas Constitution requires the state to provide an adequate education;

(iii) Further finds that a student should not be compelled against the wishes of the parent, guardian, or the student, if the student is over eighteen (18) years of age, to remain in a public school or school district classified by the State Board of Education as a school or school district in academic distress under § 6-15-428; and

(iv) Shall make available a public school choice option in order to give a child the opportunity to attend a public school or school district not in academic distress.

(3) The General Assembly further finds that giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools, since teachers, administrators, and school district board members will have added incentives to satisfy the educational needs of the students who reside in the district.

(4) A public school choice program is hereby established to enable any student to transfer from a public school or school district classified by the state board as a public school or school district in academic distress to another public school or school district in the state that is not in academic distress, subject to the restrictions contained in this section.

(b) (1) Upon the request of a parent, guardian, or the student, if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school under this section if:

(A) The resident public school or school district has been classified by the state board as a public school or school district in academic distress; and

(B) The parent, guardian, or the student, if the student is over eighteen (18) years of age, has notified the Department of Education and both the sending and receiving school districts of the request for a transfer no later than July 30 of the first year in which the student intends to transfer.

(2) (A) (i) For the purposes of continuity of educational choice, the transfer shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or the parent, guardian, or the student, if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

(ii) A transfer under this section is effective at the beginning of the next academic year.

(B) Application for the opportunity public school choice option shall be provided by the department, shall contain a notice that a transfer under this subsection shall operate as an irrevocable choice for at least one (1) entire school year, and shall remain in force until the student completes high school as provided in this subsection except as otherwise provided by law.

(3) (A) For each student enrolled in or assigned to a public school or school district that has been classified by the state board as a public school or school district in academic distress, a school district shall:

(i) Timely notify the parent, guardian, or the student, if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available under this section; and

(ii) (a) Offer the parent, guardian, or the student, if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by the state board as a public school or school district in academic distress.

(b) The opportunity to continue attending the public school or school district that is not classified as a public school or school district in academic distress shall remain in force until the student graduates from high school.

(B) (i) The parent or guardian of a student enrolled in or assigned to a public school or school district that has been classified by the state board as a public school or school district in academic distress may choose as an alternative to enroll the student in a legally allowable public school or school district that is not classified as a public school or school district in academic distress and that is nearest to the student's legal residence.

(ii) That school or school district shall accept the student and report the student for purposes of the funding under applicable state law.

(C) (i) Students with disabilities who are eligible to receive services from the school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, and who participate in the public school choice program remain eligible to receive services from the school district as provided by federal or state law.

(ii) Any funding for the student shall be transferred to the public school or school district to which the student transfers.

(c) (1) (A) The receiving public school or school district may transport students to and from the transferring public school or school district, and the cost of transporting students shall be the responsibility of the transferring public school or school district except as provided under subdivisions (c)(1)(B) and (c)(2) of this section.

(B) A transferring public school or school district shall not be required to spend more than four hundred dollars ($400) per student per school year for transportation required under subdivision (c)(1)(A) of this section.

(2) Upon the transferring public school's or school district's removal from classification as a public school or school district in academic distress, the transportation costs shall no longer be the responsibility of the transferring public school or school district, and the student's transportation and the costs of the transportation shall be the responsibility of the parent or guardian or of the receiving public school or school district if the receiving public school or school district agrees to bear the transportation costs.

(d) (1) (A) Each school district board of directors shall offer the opportunity public school choice option within the public schools.

(B) The opportunity public school choice option shall be offered in addition to other existing choice programs.

(2) (A) (i) A school district shall not deny a student the ability to attend a school in the student's school district of choice under this section unless there is a lack of capacity at the school in the student's school district of choice.

(ii) 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.

(B) The race or ethnicity of a student shall not be used to deny a student the ability to attend a school in the student's school district of choice under this section.

(3) A student or the student's parent or guardian may appeal a school district's decision to deny admission to a school in a student's school district of choice due to lack of capacity to the State Board of Education after the student or the student's parent or guardian receives a written notice from the school district of choice that admission has been denied.

(4) The department shall promulgate rules governing the use of school capacity as a basis for denying admission under this section.

(e) (1) The provisions of this section and all student choice options created in this section shall comply with § 6-18-206(d) [repealed], (e) [repealed], and (i) [repealed] and shall not be subject to any other limitation or restriction provided by law.

(2) If any part of this section conflicts with the provisions of a federal desegregation court order applicable to a school district, the provisions of the federal desegregation court order shall govern.

(f) The department shall develop an annual report on the status of school choice and deliver the report to the state board, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.

(g) Each school district board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to rules adopted by the state board.

(h) (1) A receiving district shall accept credits toward graduation that were awarded by another district.

(2) The receiving district shall award a diploma to a nonresident student if the student meets the receiving district's graduation requirements.

(i) For purposes of determining a school district's state funding, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.

(j) (1) All school districts shall report to the department on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.

(2) The reports may be on those forms that are prescribed by the department, or the data may be submitted electronically by the district using a format authorized by the department.

(3) The department may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the department so long as thirty (30) calendar days are given between the request for the information and the published deadline.

(4) A copy of the report shall be provided to the House Committee on Education and the Senate Committee on Education.

(k) (1) Unless excused by the school for illness or other good cause:

(A) Any student participating in the opportunity public school choice option shall remain in attendance throughout the school year and shall comply fully with the school's code of conduct; and

(B) The parent or guardian of each student participating in the opportunity public school choice option shall comply fully with the receiving public school's parental involvement requirements.

(2) A participant who fails to comply with this section shall forfeit the opportunity public school choice option.

(l) (1) The maximum opportunity public school choice funds granted for an eligible student shall be calculated based on applicable state law.

(2) (A) The receiving school district shall report all students who transfer from another public school under the public school choice program.

(B) The students attending public schools pursuant to the opportunity public school choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.

(3) The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

(m) The state board shall adopt any rules necessary for the implementation of this section pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(n) A district under the public school choice program shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2003 (2nd Ex. Sess.), No. 35, § 7; 2005, No. 2121, § 22; 2011, No. 1124, §§ 1, 2; 2011, No. 1147, § 1; 2013, No. 600, §§ 7-12; 2013, No. 1138, § 45; 2013, No. 1227, § 4; 2013, No. 1429, § 11.

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OPPORTUNITY SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT
September 2013

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Rules Governing the Arkansas Opportunity Public School Choice Act.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Arkansas Opportunity Public School Choice Act as amended.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by Ark. Code Ann. §§ 6-11-105, 6-18-227, 6-15-430, 25-15-201 et seq., and Acts 600, 1227 and 1429 of 2013.

3.00 DEFINITIONS

As used in these rules:

3.01 "Department" means the Arkansas Department of Education.

3.02 "Nonresident or receiving district" means the public school district, or open-enrollment public charter school, to which a student transfers or seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.03 "Nonresident or receiving school" means the public school to which a student transfers or seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227. A nonresident or receiving school may be a public school within the resident district, a public school within a nonresident district, or an open-enrollment public charter school.

3.04 "Resident or transferring district" means the public school district in which the student resides and from which the student seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.05 "Resident or transferring school" means the public school in which the student is enrolled at the time of application and from which the student seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.06 "Public school or school district in academic distress" means 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.

4.00 GENERAL REQUIREMENTS

4.01 Upon the request of a parent or guardian, or the student if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school under these rules if:

4.01.1 The resident public school or school district has been classified by the State Board of Education as a public school or school district in academic distress; and

4.01.2 The parent or guardian, or the student if the student is over eighteen (18) years of age, has notified the Department of Education and both the transferring and receiving school districts of the request to transfer no later than July 30 of the first year in which the student intends to transfer.

4.02 Each school district board of directors shall offer the Opportunity Public School Choice option within the public schools. The Opportunity Public School Choice option shall be offered in addition to other existing choice programs.

4.03 The parent or guardian of a student, or the student if the student is over eighteen (18) years of age, 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 may choose as an alternative to enroll the student in a legally allowable public school or school district that is not classified as a public school or school district in academic distress and that is nearest to the student's legal residence. That school or school district shall accept the student and report the student for purposes of the funding under applicable state law.

4.04 Within thirty (30) days from receipt of an application from a student seeking admission under these rules, the superintendent of the nonresident district shall notify in writing the parent or guardian, or the student if the student is over eighteen (18) years of age, whether the Opportunity Public School Choice application has been accepted or rejected. The notification shall be sent via First-Class Mail to the address on the application.

4.04.1 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter the deadline by which the student must enroll in the receiving school.

4.04.2 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the specific reasons for the rejection.

4.04.3 A school district shall not deny a student the ability to transfer to a nonresident school under these rules unless there is a lack of capacity at the nonresident school.

4.04.4 A lack of capacity may be claimed by a school district only if the nonresident school has reached the maximum student-to-teacher ratio allowed under federal law, state law, the rules for standards of

accreditation, or other applicable regulations. For the purposes of these rules, a school district may claim a lack of capacity if, as of the date the application for opportunity school choice is made, ninety-five percent (95%) or more of the seats at the grade level at the nonresident school are filled.

4.04.5 The race or ethnicity of a student shall not be used to deny a student the ability to attend a nonresident school under these rules.

4.04.6 Pursuant to Section 7.00 of these rules, a parent or guardian, or the student if the student is over eighteen (18) years of age, may appeal a school district's decision to deny admission to a nonresident school to the State Board of Education after the student or the student's parent or guardian receives written notice from the nonresident district that admission has been denied.

4.04.7 If any provision of these rules conflicts with the provisions of a federal desegregation court order applicable to a school district, the provisions of the federal desegregation order shall govern.

4.05 For each student 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, a school district shall:

4.05.1 Timely notify the parent or guardian, or the student if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available under these rules; and

4.05.2 Offer the parent or guardian, or the student if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by the State Board of Education as a public school or school district in academic distress.

4.05.3 The opportunity to continue attending the public school or school district that is not classified as a public school or school district in academic distress shall remain in force until the student graduates from high school.

4.06 For the purposes of continuity of educational choice, a transfer under these rules shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until:

4.06.1 The student completes high school; or,

4.06.2 The parent or guardian, or the student if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

4.07 A transfer under these rules is effective at the beginning of the next academic year.

4.08 Students with disabilities who are eligible to receive services from the transferring school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, and who participate in the Opportunity Public School Choice Act program, shall remain eligible to receive services from the receiving school district as provided by state or federal law. Any funding for the student shall be transferred to the school district to which the student transfers.

4.09 The receiving public school or school district may transport students to and from the transferring public school or school district, and the cost of transporting students shall be the responsibility of the transferring public school or school district except as provided under Sections 4.09.1 and 4.09.2 of these rules.

4.09.1 A transferring public school or school district shall not be required to spend more than four hundred dollars ($400) per student per school year for transportation required under Section 4.09 of these rules.

4.09.2 Upon the transferring public school or school district's removal from classification as a public school or school district in academic distress, the transportation costs shall no longer be the responsibility of the transferring public school or school district, and the student's transportation and the costs of transportation shall be the responsibility of the parent or guardian or of the receiving public school or school district if the receiving public school or school district agrees to bear the transportation costs.

4.10 Unless excused by the school for illness or other good cause:

4.10.1 Any student participating in the Opportunity Public School Choice option shall remain in attendance throughout the school year and shall comply fully with the receiving school's code of conduct; and

4.10.2 The parent or guardian of each student participating in the Opportunity Public School Choice option shall comply fully with the receiving school's parental involvement requirements.

4.11 The parent or guardian shall ensure that the student participating in the opportunity public school choice option takes all statewide assessments, including, but not limited to, benchmark exams, required pursuant to Ark. Code Ann. § 6-15-433.

4.12 A student failing to comply with the requirements of these rules shall forfeit the Opportunity Public School Choice option.

4.13 A receiving district shall accept credits toward graduation that were awarded by another district.

4.14 The receiving district shall award a diploma to a student transferred under these rules if the student meets the receiving district's graduation requirements.

4.15 A district under this program shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

5.00 REPORTING REQUIREMENTS

5.01 The Department of Education shall develop an annual report on the status of school choice and deliver the report to the State Board of Education, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.

5.02 Each school district board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to these rules. The school district board of directors shall report this data through its cycle reports as prescribed by the Commissioner of Education.

5.03 All school districts shall report to the Department of Education on an annual basis the race and gender of each student identified in Section 5.02 above, and other pertinent information needed to properly monitor compliance with the provisions of these rules. The reports may be on forms prescribed by the Department of Education, or the data may be submitted electronically by the district using a format authorized by the Department of Education. The school districts shall report this data through its cycle reports as prescribed by the Commissioner of Education.

5.03.1 The Department of Education may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the Department of Education so long as thirty (30) calendar days are given between the request for the information and the published deadline.

5.03.2 A copy of the report shall be provided to the Joint Interim Committee on Education.

5.04 The receiving school district shall report all students who transfer from another public school under this program. The students attending public schools pursuant to the Opportunity Public School Choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.

6.00 FUNDING CONSIDERATIONS

6.01 For the purposes of determining a school district's state funding, the nonresident student shall be counted as a part of the average daily membership of the receiving district.

6.02 The maximum Opportunity Public School Choice funds granted for an eligible student shall be calculated based on applicable state law.

6.03 The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

7.00 APPEAL PROCEDURES

7.01 A parent or guardian, or the student if the student is over eighteen (18) years of age, may appeal a school district's decision to deny admission to a nonresident school due to a lack of capacity to the State Board of Education pursuant to this section.

7.02 The student or the student's parent or guardian (hereinafter the appealing party) must present a written appeal to the State Board of Education via certified mail, return receipt requested, no later than ten (10) calendar days, excluding weekends and legal holidays, after the appealing party receives notice of rejection from the superintendent of the nonresident district in accordance with Section 4.04 of these rules.

7.02.1 The written appeal should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.02.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the appealing party must also mail a copy of the written appeal to the superintendent of the nonresident school district.

7.02.3 In its written appeal, the appealing party shall state his or her basis for appealing the decision of the nonresident district.

7.02.4 The appealing party must submit, along with its written appeal, a copy of the rejection letter from the nonresident district.

7.02.5 Any request for a hearing before the State Board of Education must be made in the written appeal.

7.03 The nonresident district may submit, in writing, any additional information, evidence or arguments supporting its rejection of the student's application by mailing such response via certified mail, return receipt requested to the State

Board of Education no later than ten (10) days after receiving the appealing party's written appeal.

7.03.1 Any response from the nonresident district should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.03.2 Contemporaneously with the filing of the written response with the Office of the Commissioner, the nonresident district must also mail a copy of the written response to the appealing party.

7.03.3 If the appealing party did not request a hearing before the State Board of Education, the nonresident district may request a hearing in its response.

7.04 If a hearing is requested by either party, the State Board of Education shall schedule the hearing for the next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.05 If no hearing is requested by either party, the State Board of Education shall consider the appeal during its next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.06 State Board of Education Hearing Procedures

7.06.1 A staff member of the Department of Education shall introduce the agenda item.

7.06.2 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board of Education.

7.06.3 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.

7.06.4 Each party will be given twenty (20) minutes to present their cases, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

7.06.5 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board of Education as a witness during the hearing. The

State Board of Education may accept testimony by affidavit, declaration, or deposition.

7.06.6 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

7.06.7 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1, 2, 3).

7.06.8 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A, B, C).

7.06.9 The nonresident district shall have the burden of proof in proving the basis for the denial of the transfer.

7.06.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

7.06.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board of Education shall provide a written decision to the Department of Education, the appealing party, and the nonresident district within fourteen (14) calendar days of announcing its decision under this section.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District and School Name: County Name:

Address:

Phone:

ATTACHMENT 1

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Note 1: The race or ethnicity of a student shall not be used to deny the student to attend a school district of choice under the Arkansas Opportunity School Choice Act. This information is gathered for district reporting purposes only.

Note 2: Pursuant to Ark. Code Ann. § 6-18-227, reviewers of this application are hereby notified that a transfer under the Arkansas Opportunity School Choice Act shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or as otherwise provided by law.

Note 3: A school district shall not deny a student the ability to attend school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice as defined by Arkansas law and Arkansas Department of Education rules.

Note 4: Pursuant to Ark. Code Ann. § 6-18-227, a student may only transfer from a public school or school district that has been classified as a public school or school district in academic distress.

DISTRICT USE ONLY					
Date and Time Received by Nonresident District:					
Resident District LEA #:			Nonresident District LEA#:		
Resident School LEA#:			Nonresident School LEA#:		
Student's State Identification #:					
Application	Accepted		Rejected		
Reason for Rejection (If Applicable):					
Date Notification Sent to Parent/Guardian of Applicant:					

HEARING PROCEDURES

Board of Education no later than ten (10) days after receiving the appealing party's written appeal.

7.03.1 Any response from the nonresident district should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.03.2 Contemporaneously with the filing of the written response with the Office of the Commissioner, the nonresident district must also mail a copy of the written response to the appealing party.

7.03.3 If the appealing party did not request a hearing before the State Board of Education, the nonresident district may request a hearing in its response.

7.04 If a hearing is requested by either party, the State Board of Education shall schedule the hearing for the next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.05 If no hearing is requested by either party, the State Board of Education shall consider the appeal during its next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.06 State Board of Education Hearing Procedures

7.06.1 A staff member of the Department of Education shall introduce the agenda item.

7.06.2 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board of Education.

7.06.3 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.

7.06.4 Each party will be given twenty (20) minutes to present their cases, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

7.06.5 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board of Education as a witness during the hearing. The

State Board of Education may accept testimony by affidavit, declaration, or deposition.

7.06.6 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

7.06.7 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1, 2, 3).

7.06.8 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A, B, C).

7.06.9 The nonresident district shall have the burden of proof in proving the basis for the denial of the transfer.

7.06.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

7.06.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board of Education shall provide a written decision to the Department of Education, the appealing party, and the nonresident district within fourteen (14) calendar days of announcing its decision under this section.

NOTICE LETTER

ARKANSAS DEPARTMENT OF EDUCATION

Johnny Key
Commissioner

State Board of Education

Sam Ledbetter
Little Rock
Chair

Toyce Newton
Crossett
Vice Chair

Dr. Jay Barth
Little Rock

Joe Black
Newport

Kim Davis
Fayetteville

Alice Mahony
El Dorado

Mireya Reith
Fayetteville

Vicki Saviers
Little Rock

Diane Zook
Melbourne

July 21, 2015

Ms. Kennethe McGruder
[redacted]
Little Rock, AR 72205

Dr. Frederick L. Fields
Little Rock School District
501 Sherman Street
Little Rock, AR 72202-2451

Re: Appeal Under the Opportunity Public School Choice Act
VIA CERTIFIED AND REGULAR MAIL

Everyone:

This letter is to notify you that the Arkansas State Board of Education is scheduled to hear the above-referenced appeal(s) on **Thursday, August 6, 2015**. The meeting will begin at **10:00 a.m. in the Auditorium of the Arch Ford Education Building, Four Capitol Mall, Little Rock, Arkansas.** Any additional materials any party chooses to submit should be provided to my office **no later than 12:00 noon on Friday, July 24, 2015**.

The Arkansas State Board of Education has requested the parent and the district attend this meeting and be available for questions.

The above-referenced appeal(s) will be conducted pursuant to the legal authority and jurisdiction vested in the State Board by Ark. Code Ann. § 6-18-227 and the Arkansas Department of Education Rules Governing the Opportunity Public School Choice Act. You may find a copy of the applicable rules here:

http://www.arkansased.gov/public/userfiles/rules/Current/Opportunity_School_Choice_Rules_Final_September_2013.pdf

Thank you in advance for your cooperation in this matter. Please do not hesitate to contact the Arkansas Department of Education's Legal Services Division at (501) 682-4227 should you require additional information.

Sincerely,

Jennifer Davis
Staff Attorney
Arkansas Department of Education
Four Capitol Mall, Room 301-A
Little Rock, AR 72201
(501) 682-4227
(501) 682-4249 (fax)
jennifer.davis@arkansas.gov

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity Employer

APPEAL

July 5, 2015

The Office of the Commissioner

Attn: Opportunity School Choice Appeal

Four Capital Mall

Little Rock, AR 72201

RECEIVED
COMMISSIONER'S OFFICE
JUL 13 2015
DEPARTMENT OF EDUCATION

To whom it may concern:

I would like to file an appeal, and request a hearing in front of the board to request the transfer of my child for Hall High School. I would like to request that A[redacted] Richardson ID#[redacted] be transferred to a non district school that is not in distress.

Sincerely,

Kennethe McGruder

[redacted]

Little Rock, AR 72205

[redacted]

Mrs. Kennethe M. Gruber
[redacted]
Little Rock, AR 72205

UNITED STATES POSTAL SERVICE
1000
72201

U.S. POSTAGE
PAID
LITTLE ROCK,AR
72205
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FOREVER
USA

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL®

7014 2870 0000 3979 9309

The Office of The Commissioners
Attn: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, AR 72201

72201101304

LITTLE ROCK SCHOOL DISTRICT
STUDENT REGISTRATION OFFICE
501 SHERMAN STREET
LITTLE ROCK, AR 72202

July 02, 2015

TO THE PARENT OF:
Ashley Richardson
[redacted]
Little Rock, AR 72205

002

ID#: 356379
Assigned School: Hall High School
*Grade(2015-16): 09**

Dear Parent:

Thank you for submitting your Arkansas Opportunity School Choice application to the Little Rock School Distric
I regret to inform you the school selected does not have any available seats at this time. Therefore, your child wil
remain at their attendance zone school. You will need to report to your assigned school for Check-In, August 3-4
2015.

You have 10 days to appeal this decision. You may contact:

The Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, AR 72201

While we were not able to grant your choice application at this time, we would like to assure you the Little Roc
School District is committed to providing a quality and equitable education at all of our schools. We solicit an
look forward to your continued support and involvement in the educational process of your child.

Sincerely,

Dr. Frederick L. Fields, Senior Director of Student Services/SATS

RESPONSE

LITTLE ROCK SCHOOL DISTRICT
501 SHERMAN STREET
LITTLE ROCK, AR 72202

OFFICE OF STUDENT SERVICES
Dr. Frederick Fields

Phone: (501) 447-2950
E-Mail: frederick.fields@lrsd.org

July 14, 2015

Dear Attorney Davis,

Distressed Applications are reviewed on a First Come, First Serve Basis. Parents are given only one choice. A[redacted] Richardson's distressed application was submitted July 1, 2015, at 9:56 a.m. Her application number was 282 for Parkview High School **only**. However, we had limited seats to offer based on our enrollment. Therefore, her application was reviewed and denied based on lack of seat availability.

If you need any additional information, please feel free to contact me at (501)447-2950.

Sincerely,

Frederick L. Fields

Frederick L. Fields, Ed. D
Sr. Director of Student Services

ATTACHMENT 1

#282

RECEIVED
JUL 01 REC'D
By

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION

Student Name: [redacted] Richardson

Student Date [redacted] Gender Male ☐ Female ☑

Grade: 9th

Does the applicant require special needs or programs? Yes ☐ No ☑

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☑

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: Hall - Little Rock School District County Name: Pulaski

Address: 6700 H. St., Little Rock, AR 72205

Phone: 501-447-1900

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District and School Name: Little Rock School District - Parkview Arts and Science Magnet H.S. County Name: Pulaski

Address: 2501 John Barrow Rd, Little Rock, AR 72204

Phone: 501-447-2300 / Dance Arts, Arts Vocal Music + Speech Drama

ATTACHMENT 1

282---

PARENT OR GUARDIAN INFORMATION	
Name: Kennethe McBruder	Home Phone: [redacted]
Address: [redacted], Little Rock, AR 72205	Work Phone:
Parent/Guardian Signature	Date: 7/1/2015

Note 1: The race or ethnicity of a student shall not be used to deny the student to attend a school district of choice under the Arkansas Opportunity School Choice Act. This information is gathered for district reporting purposes only.

Note 2: Pursuant to Ark. Code Ann. § 6-18-227, reviewers of this application are hereby notified that a transfer under the Arkansas Opportunity School Choice Act shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or as otherwise provided by law.

Note 3: A school district shall not deny a student the ability to attend school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice as defined by Arkansas law and Arkansas Department of Education rules.

Note 4: Pursuant to Ark. Code Ann. § 6-18-227, a student may only transfer from a public school or school district that has been classified as a public school or school district in academic distress.

DISTRICT USE ONLY	
Date and Time Received by Nonresident District:	
Resident District LEA #:	Nonresident District LEA#:
Resident School LEA#:	Nonresident School LEA#:
Student's State Identification #:	
Application Accepted [ ]	Rejected [✓]
Reason for Rejection (If Applicable): Lack of Space	
Date Notification Sent to Parent/Guardian of Applicant: JUL 02 2015	

SCHOOL DISTRESSED LOG

#	DATE	TIME	STUDENT NAME	PARENT NAME	CONTACT NUMBER	EMAIL ADDRESS	CONFIRM EMAIL ADDRESS	SCHOOL ASSIGNMENT	REQUESTED SCHOOL
271	6/29/15	9:55	[redacted]					Hall	Central
272	6/29/15	9:28						Cloverdale ~~Dunbar~~	Dunbar
273	6/29/15	11:18						Hall	Parkview
274	6/29/15	2:32						Hall	Central
275	6/29/15	2:32						Hall	Central
276	6/29/15	2:57						Henderson	Pulaski Heights
277	6/30/15	10:30						JA Fair	Central ~~Forgotten~~
278	6/30/15	12:50						Cloverdale	Dunbar
279	6/30/15	2:50						~~McCoy~~ HAN	Central
280	6/30/15	1:25						Hall	Parkview
281	6/30/15	2:05						McClean	Mills
OK 282	~~7/1/15~~	~~9:51A~~	~~A[redacted] Richards Jr.~~	~~Everard Middle Grader~~	[redacted]			~~Hall~~	~~Parkview~~
283	7/1/15	10:10A	[redacted]					Hall	J.T. Robinson
284	7/1/15	3:54P						HALL	J.T. ROBINSON
285	7/2/15	1:35						Henderson	Mann

ASSOCIATED DOCUMENTS

OPPORTUNITY SCHOOL CHOICE STATUTES AND ACTS

FOCUS™ Terms Search Within Original Results (1 - 1) Go
Advanced...

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1 of 1
Return to Results | Book Browse
A.C.A. § 6-18-227 (Copy w/ Cite) Pages: **6**

A.C.A. § 6-18-227

Arkansas Code of 1987 Annotated Official Edition
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*** Legislation is current through the 2014 Fiscal Session and updates ***
*** received from the Arkansas Code Revision Commission through ***
*** July 2, 2014. ***

Title 6 Education
Subtitle 2. Elementary And Secondary Education Generally
Chapter 18 Students
Subchapter 2 -- Attendance

A.C.A. § 6-18-227 (2014)

6-18-227. Arkansas Opportunity Public School Choice Act of 2004.

(a) (1) This section may be referred to and cited as the "Arkansas Opportunity Public School Choice Act of 2004".

(2) (A) The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a technical education, or the world of work.

(B) The General Assembly:

(i) Recognizes that the Arkansas Constitution, as interpreted by the Supreme Court in Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002), makes education a paramount duty of the state;

(ii) Finds that the Arkansas Constitution requires the state to provide an adequate education;

(iii) Further finds that a student should not be compelled against the wishes of the parent, guardian, or the student, if the student is over eighteen (18) years of age, to remain in a public school or school district classified by the State Board of Education as a school or school district in academic distress under § 6-15-428; and

(iv) Shall make available a public school choice option in order to give a child the opportunity to attend a public school or school district not in academic distress.

(3) The General Assembly further finds that giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools, since teachers, administrators, and school district board members will have added incentives to satisfy the educational needs of the students who reside in the district.

(4) A public school choice program is hereby established to enable any student to transfer from a public school or school district classified by the state board as a public school or school district in academic distress to another public school or school district in the state that is not in academic distress, subject to the restrictions contained in this section.

(b) (1) Upon the request of a parent, guardian, or the student, if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school under this section if:

(A) The resident public school or school district has been classified by the state board as a public school or school district in academic distress; and

(B) The parent, guardian, or the student, if the student is over eighteen (18) years of age, has notified the Department of Education and both the sending and receiving school districts of the request for a transfer no later than July 30 of the first year in which the student intends to transfer.

(2) (A) (i) For the purposes of continuity of educational choice, the transfer shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or the parent, guardian, or the student, if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

(ii) A transfer under this section is effective at the beginning of the next academic year.

(B) Application for the opportunity public school choice option shall be provided by the department, shall contain a notice that a transfer under this subsection shall operate as an irrevocable choice for at least one (1) entire school year, and shall remain in force until the student completes high school as provided in this subsection except as otherwise provided by law.

(3) (A) For each student enrolled in or assigned to a public school or school district that has been classified by the state board as a public school or school district in academic distress, a school district shall:

(i) Timely notify the parent, guardian, or the student, if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available under this section; and

(ii) (a) Offer the parent, guardian, or the student, if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by the state board as a public school or school district in academic distress.

(b) The opportunity to continue attending the public school or school district that is not classified as a public school or school district in academic distress shall remain in force until the student graduates from high school.

(B) (i) The parent or guardian of a student enrolled in or assigned to a public school or school district that has been classified by the state board as a public school or school district in academic distress may choose as an alternative to enroll the student in a legally allowable public school or school district that is not classified as a public school or school district in academic distress and that is nearest to the student's legal residence.

(ii) That school or school district shall accept the student and report the student for purposes of the funding under applicable state law.

(C) (i) Students with disabilities who are eligible to receive services from the school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, and who participate in the public school choice program remain eligible to receive services from the school district as provided by federal or state law.

(ii) Any funding for the student shall be transferred to the public school or school district to which the student transfers.

(c) (1) (A) The receiving public school or school district may transport students to and from the transferring public school or school district, and the cost of transporting students shall be the responsibility of the transferring public school or school district except as provided under subdivisions (c)(1)(B) and (c)(2) of this section.

(B) A transferring public school or school district shall not be required to spend more than four hundred dollars ($400) per student per school year for transportation required under subdivision (c)(1)(A) of this section.

(2) Upon the transferring public school's or school district's removal from classification as a public school or school district in academic distress, the transportation costs shall no longer be the responsibility of the transferring public school or school district, and the student's transportation and the costs of the transportation shall be the responsibility of the parent or guardian or of the receiving public school or school district if the receiving public school or school district agrees to bear the transportation costs.

(d) (1) (A) Each school district board of directors shall offer the opportunity public school choice option within the public schools.

(B) The opportunity public school choice option shall be offered in addition to other existing choice programs.

(2) (A) (i) A school district shall not deny a student the ability to attend a school in the student's school district of choice under this section unless there is a lack of capacity at the school in the student's school district of choice.

(ii) 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.

(B) The race or ethnicity of a student shall not be used to deny a student the ability to attend a school in the student's school district of choice under this section.

(3) A student or the student's parent or guardian may appeal a school district's decision to deny admission to a school in a student's school district of choice due to lack of capacity to the State Board of Education after the student or the student's parent or guardian receives a written notice from the school district of choice that admission has been denied.

(4) The department shall promulgate rules governing the use of school capacity as a basis for denying admission under this section.

(e) (1) The provisions of this section and all student choice options created in this section shall comply with § 6-18-206(d) [repealed], (e) [repealed], and (i) [repealed] and shall not be subject to any other limitation or restriction provided by law.

(2) If any part of this section conflicts with the provisions of a federal desegregation court order applicable to a school district, the provisions of the federal desegregation court order shall govern.

(f) The department shall develop an annual report on the status of school choice and deliver the report to the state board, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.

(g) Each school district board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to rules adopted by the state board.

(h) (1) A receiving district shall accept credits toward graduation that were awarded by another district.

(2) The receiving district shall award a diploma to a nonresident student if the student meets the receiving district's graduation requirements.

(i) For purposes of determining a school district's state funding, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.

(j) (1) All school districts shall report to the department on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.

(2) The reports may be on those forms that are prescribed by the department, or the data may be submitted electronically by the district using a format authorized by the department.

(3) The department may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the department so long as thirty (30) calendar days are given between the request for the information and the published deadline.

(4) A copy of the report shall be provided to the House Committee on Education and the Senate Committee on Education.

(k) (1) Unless excused by the school for illness or other good cause:

(A) Any student participating in the opportunity public school choice option shall remain in attendance throughout the school year and shall comply fully with the school's code of conduct; and

(B) The parent or guardian of each student participating in the opportunity public school choice option shall comply fully with the receiving public school's parental involvement requirements.

(2) A participant who fails to comply with this section shall forfeit the opportunity public school choice option.

(l) (1) The maximum opportunity public school choice funds granted for an eligible student shall be calculated based on applicable state law.

(2) (A) The receiving school district shall report all students who transfer from another public school under the public school choice program.

(B) The students attending public schools pursuant to the opportunity public school choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.

(3) The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

(m) The state board shall adopt any rules necessary for the implementation of this section pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(n) A district under the public school choice program shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

HISTORY: Acts 2003 (2nd Ex. Sess.), No. 35, § 7; 2005, No. 2121, § 22; 2011, No. 1124, §§ 1, 2; 2011, No. 1147, § 1; 2013, No. 600, §§ 7-12; 2013, No. 1138, § 45; 2013, No. 1227, § 4; 2013, No. 1429, § 11.

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OPPORTUNITY SCHOOL CHOICE RULES

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT
September 2013

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Rules Governing the Arkansas Opportunity Public School Choice Act.

1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Arkansas Opportunity Public School Choice Act as amended.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by Ark. Code Ann. §§ 6-11-105, 6-18-227, 6-15-430, 25-15-201 et seq., and Acts 600, 1227 and 1429 of 2013.

3.00 DEFINITIONS

As used in these rules:

3.01 "Department" means the Arkansas Department of Education.

3.02 "Nonresident or receiving district" means the public school district, or open-enrollment public charter school, to which a student transfers or seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.03 "Nonresident or receiving school" means the public school to which a student transfers or seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227. A nonresident or receiving school may be a public school within the resident district, a public school within a nonresident district, or an open-enrollment public charter school.

3.04 "Resident or transferring district" means the public school district in which the student resides and from which the student seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.05 "Resident or transferring school" means the public school in which the student is enrolled at the time of application and from which the student seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

3.06 "Public school or school district in academic distress" means 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.

4.00 GENERAL REQUIREMENTS

4.01 Upon the request of a parent or guardian, or the student if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school under these rules if:

4.01.1 The resident public school or school district has been classified by the State Board of Education as a public school or school district in academic distress; and

4.01.2 The parent or guardian, or the student if the student is over eighteen (18) years of age, has notified the Department of Education and both the transferring and receiving school districts of the request to transfer no later than July 30 of the first year in which the student intends to transfer.

4.02 Each school district board of directors shall offer the Opportunity Public School Choice option within the public schools. The Opportunity Public School Choice option shall be offered in addition to other existing choice programs.

4.03 The parent or guardian of a student, or the student if the student is over eighteen (18) years of age, 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 may choose as an alternative to enroll the student in a legally allowable public school or school district that is not classified as a public school or school district in academic distress and that is nearest to the student's legal residence. That school or school district shall accept the student and report the student for purposes of the funding under applicable state law.

4.04 Within thirty (30) days from receipt of an application from a student seeking admission under these rules, the superintendent of the nonresident district shall notify in writing the parent or guardian, or the student if the student is over eighteen (18) years of age, whether the Opportunity Public School Choice application has been accepted or rejected. The notification shall be sent via First-Class Mail to the address on the application.

4.04.1 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter the deadline by which the student must enroll in the receiving school.

4.04.2 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the specific reasons for the rejection.

4.04.3 A school district shall not deny a student the ability to transfer to a nonresident school under these rules unless there is a lack of capacity at the nonresident school.

4.04.4 A lack of capacity may be claimed by a school district only if the nonresident school has reached the maximum student-to-teacher ratio allowed under federal law, state law, the rules for standards of

accreditation, or other applicable regulations. For the purposes of these rules, a school district may claim a lack of capacity if, as of the date the application for opportunity school choice is made, ninety-five percent (95%) or more of the seats at the grade level at the nonresident school are filled.

4.04.5 The race or ethnicity of a student shall not be used to deny a student the ability to attend a nonresident school under these rules.

4.04.6 Pursuant to Section 7.00 of these rules, a parent or guardian, or the student if the student is over eighteen (18) years of age, may appeal a school district's decision to deny admission to a nonresident school to the State Board of Education after the student or the student's parent or guardian receives written notice from the nonresident district that admission has been denied.

4.04.7 If any provision of these rules conflicts with the provisions of a federal desegregation court order applicable to a school district, the provisions of the federal desegregation order shall govern.

4.05 For each student 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, a school district shall:

4.05.1 Timely notify the parent or guardian, or the student if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available under these rules; and

4.05.2 Offer the parent or guardian, or the student if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by the State Board of Education as a public school or school district in academic distress.

4.05.3 The opportunity to continue attending the public school or school district that is not classified as a public school or school district in academic distress shall remain in force until the student graduates from high school.

4.06 For the purposes of continuity of educational choice, a transfer under these rules shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until:

4.06.1 The student completes high school; or,

4.06.2 The parent or guardian, or the student if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

4.07 A transfer under these rules is effective at the beginning of the next academic year.

4.08 Students with disabilities who are eligible to receive services from the transferring school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, and who participate in the Opportunity Public School Choice Act program, shall remain eligible to receive services from the receiving school district as provided by state or federal law. Any funding for the student shall be transferred to the school district to which the student transfers.

4.09 The receiving public school or school district may transport students to and from the transferring public school or school district, and the cost of transporting students shall be the responsibility of the transferring public school or school district except as provided under Sections 4.09.1 and 4.09.2 of these rules.

4.09.1 A transferring public school or school district shall not be required to spend more than four hundred dollars ($400) per student per school year for transportation required under Section 4.09 of these rules.

4.09.2 Upon the transferring public school or school district's removal from classification as a public school or school district in academic distress, the transportation costs shall no longer be the responsibility of the transferring public school or school district, and the student's transportation and the costs of transportation shall be the responsibility of the parent or guardian or of the receiving public school or school district if the receiving public school or school district agrees to bear the transportation costs.

4.10 Unless excused by the school for illness or other good cause:

4.10.1 Any student participating in the Opportunity Public School Choice option shall remain in attendance throughout the school year and shall comply fully with the receiving school's code of conduct; and

4.10.2 The parent or guardian of each student participating in the Opportunity Public School Choice option shall comply fully with the receiving school's parental involvement requirements.

4.11 The parent or guardian shall ensure that the student participating in the opportunity public school choice option takes all statewide assessments, including, but not limited to, benchmark exams, required pursuant to Ark. Code Ann. § 6-15-433.

4.12 A student failing to comply with the requirements of these rules shall forfeit the Opportunity Public School Choice option.

4.13 A receiving district shall accept credits toward graduation that were awarded by another district.

4.14 The receiving district shall award a diploma to a student transferred under these rules if the student meets the receiving district's graduation requirements.

4.15 A district under this program shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

5.00 REPORTING REQUIREMENTS

5.01 The Department of Education shall develop an annual report on the status of school choice and deliver the report to the State Board of Education, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.

5.02 Each school district board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to these rules. The school district board of directors shall report this data through its cycle reports as prescribed by the Commissioner of Education.

5.03 All school districts shall report to the Department of Education on an annual basis the race and gender of each student identified in Section 5.02 above, and other pertinent information needed to properly monitor compliance with the provisions of these rules. The reports may be on forms prescribed by the Department of Education, or the data may be submitted electronically by the district using a format authorized by the Department of Education. The school districts shall report this data through its cycle reports as prescribed by the Commissioner of Education.

5.03.1 The Department of Education may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the Department of Education so long as thirty (30) calendar days are given between the request for the information and the published deadline.

5.03.2 A copy of the report shall be provided to the Joint Interim Committee on Education.

5.04 The receiving school district shall report all students who transfer from another public school under this program. The students attending public schools pursuant to the Opportunity Public School Choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.

6.00 FUNDING CONSIDERATIONS

6.01 For the purposes of determining a school district's state funding, the nonresident student shall be counted as a part of the average daily membership of the receiving district.

6.02 The maximum Opportunity Public School Choice funds granted for an eligible student shall be calculated based on applicable state law.

6.03 The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

7.00 APPEAL PROCEDURES

7.01 A parent or guardian, or the student if the student is over eighteen (18) years of age, may appeal a school district's decision to deny admission to a nonresident school due to a lack of capacity to the State Board of Education pursuant to this section.

7.02 The student or the student's parent or guardian (hereinafter the appealing party) must present a written appeal to the State Board of Education via certified mail, return receipt requested, no later than ten (10) calendar days, excluding weekends and legal holidays, after the appealing party receives notice of rejection from the superintendent of the nonresident district in accordance with Section 4.04 of these rules.

7.02.1 The written appeal should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.02.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the appealing party must also mail a copy of the written appeal to the superintendent of the nonresident school district.

7.02.3 In its written appeal, the appealing party shall state his or her basis for appealing the decision of the nonresident district.

7.02.4 The appealing party must submit, along with its written appeal, a copy of the rejection letter from the nonresident district.

7.02.5 Any request for a hearing before the State Board of Education must be made in the written appeal.

7.03 The nonresident district may submit, in writing, any additional information, evidence or arguments supporting its rejection of the student's application by mailing such response via certified mail, return receipt requested to the State

Board of Education no later than ten (10) days after receiving the appealing party's written appeal.

7.03.1 Any response from the nonresident district should be sent to:

Office of the Commissioner
ATTN: Opportunity School Choice Appeal
Four Capitol Mall
Little Rock, Arkansas 72201

7.03.2 Contemporaneously with the filing of the written response with the Office of the Commissioner, the nonresident district must also mail a copy of the written response to the appealing party.

7.03.3 If the appealing party did not request a hearing before the State Board of Education, the nonresident district may request a hearing in its response.

7.04 If a hearing is requested by either party, the State Board of Education shall schedule the hearing for the next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.05 If no hearing is requested by either party, the State Board of Education shall consider the appeal during its next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.

7.06 State Board of Education Hearing Procedures

7.06.1 A staff member of the Department of Education shall introduce the agenda item.

7.06.2 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board of Education.

7.06.3 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.

7.06.4 Each party will be given twenty (20) minutes to present their cases, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

7.06.5 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board of Education as a witness during the hearing. The

State Board of Education may accept testimony by affidavit, declaration, or deposition.

7.06.6 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.

7.06.7 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1, 2, 3).

7.06.8 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A, B, C).

7.06.9 The nonresident district shall have the burden of proof in proving the basis for the denial of the transfer.

7.06.10 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

7.06.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board of Education shall provide a written decision to the Department of Education, the appealing party, and the nonresident district within fourteen (14) calendar days of announcing its decision under this section.

ATTACHMENT 1

APPLICATION FOR TRANSFER TO A NONRESIDENT SCHOOL OR SCHOOL DISTRICT UNDER THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT

APPLICANT INFORMATION

Student Name:

Student Date of Birth: Gender Male ☐ Female ☐

Grade:

Does the applicant require special needs or programs? Yes ☐ No ☐

Is applicant currently under expulsion? Yes ☐ No ☐

ETHNIC ORIGIN (CHECK ONE) (For data reporting purposes only)

2 or More Races ☐ Asian ☐ African-American ☐

Hispanic ☐ Native American/ Native Alaskan ☐ Native Hawaiian/ Pacific Islander ☐

White ☐

RESIDENT SCHOOL AND SCHOOL DISTRICT OF APPLICANT

District and School Name: County Name:

Address:

Phone:

NONRESIDENT SCHOOL/SCHOOL DISTRICT APPLICANT WISHES TO ATTEND

District and School Name: County Name:

Address:

Phone:

ATTACHMENT 1

PARENT OR GUARDIAN INFORMATION	
Name:	Home Phone:
Address:	Work Phone:
Parent/Guardian Signature	Date:

Note 1: The race or ethnicity of a student shall not be used to deny the student to attend a school district of choice under the Arkansas Opportunity School Choice Act. This information is gathered for district reporting purposes only.

Note 2: Pursuant to Ark. Code Ann. § 6-18-227, reviewers of this application are hereby notified that a transfer under the Arkansas Opportunity School Choice Act shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or as otherwise provided by law.

Note 3: A school district shall not deny a student the ability to attend school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice as defined by Arkansas law and Arkansas Department of Education rules.

Note 4: Pursuant to Ark. Code Ann. § 6-18-227, a student may only transfer from a public school or school district that has been classified as a public school or school district in academic distress.

DISTRICT USE ONLY					
Date and Time Received by Nonresident District:					
Resident District LEA #:			Nonresident District LEA#:		
Resident School LEA#:			Nonresident School LEA#:		
Student's State Identification #:					
Application	Accepted		Rejected		
Reason for Rejection (If Applicable):					
Date Notification Sent to Parent/Guardian of Applicant:					