

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

On August 12, 2013, during a regular meeting of the Arkansas State Board of Education (“Board”), the Board heard the appeal of the Ezelle family (“Petitioner”) challenging the decision of the Lakeside School District (“Respondent”) denying their application for transfer of their child under the School Choice Act of 2013.

FINDINGS OF FACT

1. The Petitioner family resides in the Hot Springs School District.
2. On or about May 10, 2013, Petitioner submitted an application to transfer one child to Respondent Lakeside School District pursuant to the School Choice Act of 2013. In the application, Petitioner indicated that their child was “white,” which is consistent with the records maintained by the Petitioner’s resident school district.
3. Both the Hot Springs School District and the Lakeside School District are in Garland County, Arkansas.
4. Although Petitioner appealed under the School Choice Act of 2013, the Hot Springs (resident) and Lakeside (Respondent) School Districts are bound by a desegregation order/plan in *Davis et al. v. Hot Springs School District et al.*, Case No. 89-6088 (United States District Court for the Western Division of Arkansas), which requires that school choice transfers in Garland County be conducted in accordance with the Arkansas Public School Choice Act of 1989. The State Board of Education remains a party to the *Davis* case.
5. The Arkansas Public School Choice Act of 1989 prohibits a student from transferring to a non-resident district where the percentage of enrollment for the student’s race exceeds that percentage in the student’s resident district, with limited exceptions.

The first exception applies when the transfer is between two school districts within the same county and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and nonresident district remain within an acceptable range as calculated by the Arkansas Department of Education. Ark. Code Ann. § 6-18-206(f)(2). The second exception applies if either school district does not have a critical mass of minority percentage in the student's race of more than 10%. Ark. Code Ann. § 6-18-206(f)(3). The third exception applies if the provisions of Ark. Code Ann. § 6-18-206 would violate a desegregation order or plan. Ark. Code Ann. § 6-18-206(f)(4).

6. The percentage of white students in Petitioner's resident district, the Hot Springs School District, is approximately 41.65%. The percentage of white students in Respondent Lakeside School District is approximately 77.86%.

7. On or about July 1, 2013, Respondent denied Petitioner's application on the grounds that the Arkansas Public School Choice Act of 1989 prohibited the transfer due to the racial composition of the resident Hot Springs and Respondent Lakeside School Districts, and that no exceptions to the general rule applied to Petitioner's transfer application.

CONCLUSIONS OF LAW

8. Because both the resident and Respondent school districts are in Garland County, the Arkansas Public School Choice Act of 1989 must be applied to Petitioner's transfer request pursuant to a federal court desegregation order/plan.

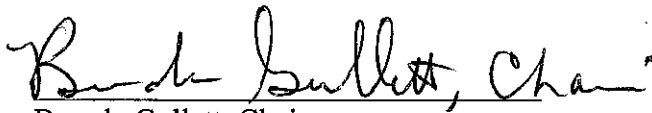
9. Because the resident Hot Springs School District's percentage of white students is approximately 41.65% and the Respondent Lakeside School District's is

approximately 77.86%, and because the Petitioner family identified their child as white on the school choice application filed with the Lakeside School District, the Arkansas Public School Choice Act of 1989 prohibits Petitioner's child's transfer to the Lakeside School District. There are no exceptions to this general rule applicable to the present transfer application.

ORDER

10. Because Petitioner's child's transfer is prohibited by the Arkansas Public School Choice Act of 1989, the Board denies Petitioner's appeal.

Signed this 9 day of September, 2013



Brenda Gullett, Chair
Arkansas State Board of Education