

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

On July 10, 2014, during a regular meeting of the Arkansas State Board of Education, a hearing was conducted pursuant to the legal authority and jurisdiction vested in the Board by the Public School Choice Act of 2013 (codified at Ark. Code Ann. § 6-18-1901 et seq.) and the Arkansas Department of Education Rules Governing the Public School Choice Act of 2013. Before the Board was the appeal of the Winters family (“Petitioner”) challenging the decision of the Parkers Chapel School District (“Respondent”) denying their application for transfer of their child under the Public School Choice Act of 2013.

FINDINGS OF FACT

1. The Petitioner family resides in the Junction City School District.
2. On or about May 7, 2014, Petitioner submitted an application to transfer one child to Respondent Parkers Chapel School District pursuant to the Public School Choice Act of 2013. On May 28, 2014, Respondent denied the application because the Petitioner’s resident school district, the Junction City School District, had declared itself exempt from the provisions of the Public School Choice Act of 2013 stating that it is subject to a federal court desegregation order remedying the effects of past racial segregation.
3. On June 6, 2014, the Petitioner appealed Respondent’s denial to the Arkansas Department of Education.
4. The Respondent declared itself exempt from the Public School Choice Act of 2013 on March 11, 2014. The Arkansas Department of Education received the notice of exemption on or about May 16, 2014.

5. The Respondent contends that it remains subject to a federal court desegregation order in the case of *United States of America v. Junction City School District No. 75, et al.*, Civil Action No. 1095, United States District Court for the Western District of Arkansas.

6. Petitioner contends that the Respondent did not notify the Arkansas Department of Education of its exemption until May 16, 2014, even though Ark. Code Ann. § 6-18-1906(b) requires the Respondent to make such notification by April 1, 2014. Because of the late notice by the Respondent to the Arkansas Department of Education, the Petitioner contends that the exemption is invalid and the appeal should be granted.

7. The Respondent previously notified the Arkansas Department of Education of its declared exemption from participation in school choice for the 2013-2014 school year.

CONCLUSIONS OF LAW

8. Ark. Code Ann. § 6-18-1906 contains two subsections that address the impact of federal desegregation orders upon a school district's ability to participate in school choice under the Public School Choice Act of 2013. First, Ark. Code Ann. § 6-18-1906(a) states that if the provisions of the school choice law "conflict with a provision of an enforceable desegregation court order or a district's court-approved desegregation plan regarding the effects of past racial segregation in student assignment, the provisions of the order or plan shall govern."

9. Second, Ark. Code Ann. § 6-18-1906(b) states that a "school district annually may declare an exemption [from participation in school choice] 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." Such an exemption is irrevocable for one year. Ark. Code Ann. § 6-18-1906(b)(2)(A). After each year of exemption, a school district's board of directors "may elect to participate in public school choice . . . if the school district's participation does not conflict with

the school district's federal court-ordered desegregation program." Ark. Code Ann. § 6-18-1906(b)(2)(B).

10. Ark. Code Ann. § 6-18-1906(b)(3) states that "[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." As noted above, the Junction City School District declared an exemption from participation in school choice for the 2013-2014 school year, but the district did not notify the Arkansas Department of Education by April 1, 2014, of its intent to declare an exemption from school choice for the 2014-2015 school year or resume participation in school choice for the 2014-2015 school year. Ark. Code Ann. § 6-18-1906 is silent regarding the effect of an exempt school district's failure to make either notification under Ark. Code Ann. § 6-18-1906(b)(3).

11. The Junction City School District remains subject to a federal desegregation order in the case of *United States of America v. Junction City School District No. 75, et al.*, Civil Action No. 1095, United States District Court for the Western District of Arkansas. The Junction City School District has not yet achieved unitary status. The State Board must respect the continuing jurisdiction of a federal court over a school district. It is not the State Board's role to determine the validity or invalidity of a desegregation order or mandate of a federal court.

ORDER

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

Signed this 24th day of July, 2014



Sam Ledbetter, Chair
Arkansas State Board of Education