

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

On October 8, 2015, 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 2015 (codified at Ark. Code Ann. § 6-18-1901 et seq.) and the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of 2015. Before the Board was the appeal of the Cleaves family ("Petitioner") challenging the decision of the Palestine-Wheatley School District ("Respondent") denying their application for transfer of her child under the Public School Choice Act of 2015.

FINDINGS OF FACT

1. The Petitioner resides in the Forrest City School District.
2. On May 25, 2015, the Petitioner submitted Arkansas Public School Choice Act application¹ to the Palestine-Wheatley School District on behalf of her child, M. Cleaves.
3. On July 27, 2015, Respondent denied the Petitioner's applications because the Petitioner's resident school district, the Forrest City School District, had declared a conflict with the provisions of the Public School Choice Act of 2015, stating that it is subject to a federal court desegregation order remedying the effects of past racial segregation.
4. The Forrest City School District notified the Department of Education on April 14, 2015, that it remains subject to federal court desegregation orders in the cases of *McKissick, et al. v. Forrest City School District No. 7* (1969), and that it has not yet achieved unitary status.
5. On or about August 14, 2015, pursuant to Ark. Code Ann. § 6-18-1907(b)(1), the Petitioner requested a hearing before the State Board to appeal the decision of the Respondent to deny the school choice applications.

CONCLUSION OF LAW

6. Ark. Code Ann. § 6-18-1906(a)(1) states that if the provisions of the school choice law "conflict with a provision of an enforceable desegregation court order or a district's court-approved desegregation plan regarding the effects of past racial segregation in student assignment, the provisions of the order or plan shall govern." Ark. Code Ann. § 6-18-1906(a)(2) requires that if a school district claims a conflict under subdivision (a)(1) of this section, "the school district shall immediately submit proof from a federal court to the Department of Education that the school district has a genuine conflict under an active desegregation order or active court-approved desegregation plan."

¹ It is noted that while the parent completed the Arkansas Opportunity School Choice application, the application, denial, and appeal were processed under the Arkansas Public School Act of 2015. ADE Staff did not want to deny the parent the right to be heard simply because she completed the wrong application.

7. The Forrest City School District states it is subject to an enforceable desegregation court order and, as such, asserts a conflict with the Public School Choice Act of 2015.

8. After consideration of the facts, the State Board voted to grant the transfer of Petitioner's child, M. Cleaves.

ORDER

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

Signed this 9th day of October, 2015



Toyce Newton, Chair
Arkansas State Board of Education