

State of Arkansas
92nd General Assembly
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As Engrossed: H3/6/19
A Bill

HOUSE BILL 1468

By: Representative Lowery

By: Senator M. Johnson

For An Act To Be Entitled

AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE
CONCERNING PUBLIC SCHOOL CHOICE; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND PROVISIONS OF THE ARKANSAS CODE
CONCERNING PUBLIC SCHOOL CHOICE.

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

SECTION 1. Arkansas Code § 6-18-227 is amended to read as follows:

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classified by the State Board of Education as a ~~school or~~ school district in ~~academic distress under § 6-15-428 [repealed]~~ need of Level 5 – intensive support under §§ 6-15-2913 or 6-15-2915 or a public school that has a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules; and

(iv) Shall make available a public school choice option in order to give a ~~child~~ student the opportunity to attend a public school or school district not in ~~academic distress~~ need of Level 5 – intensive support under §§ 6-15-2913 or 6-15-2915 or that does not have a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules.

(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~~ a student to transfer ~~from~~, subject to the restrictions in this section, from a: a public school or school district

(A) Public school district that is classified by the state board as a public school ~~or school~~ district in ~~academic distress~~ need of Level 5 – intensive support under §§ 6-15-2913 or 6-15-2915 to another public school ~~or school~~ district in the state that is not classified as in ~~academic distress~~ need of level 5 – intensive support under §§ 6-15-2913 or 6-15-2915, ~~subject to the restrictions contained in this section; or~~

(B) Public school that has a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules to a public school that does not have a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules.

(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, at the time of the request under subdivision (b)(1) of this section:

(A) Either:

(i) The resident public ~~school or~~ school district

has been classified by the state board as a public ~~school or~~ school district in ~~academic distress~~ need of Level 5 – intensive support under §§ 6-15-2913 or 6-15-2915; or

(ii) The resident public school has a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules; 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~~ May 1 of the ~~first~~ year ~~in which~~ before the student intends to transfer.

(2)(A)(i) For the purposes of continuity of educational choice, ~~the~~ a transfer under this section 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 under this section shall ~~be:~~

(i) Be provided by the department, shall contain; and

(ii) Contain a notice that a transfer under this subsection shall operate section:

(a) Operates as an irrevocable choice for at least one (1) entire school year, and shall remain; and

(b) Remains in force effect 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~~ is classified by the state board as a public school ~~or school~~ district in ~~academic distress~~ need of Level 5 – intensive support under §§ 6-15-2913 or 6-15-2915 or a public school that has a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules, 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 submit an application to enroll the student in the upcoming school year in any public school or school district that has not been is not classified by the state board as a public school or school district in academic distress need of Level 5 – intensive support under §§ 6-15-2913 and 6-15-2915 or a public school that does not have a rating of "F" under §§ 6-15-2105 or 6-15-2106 and state board rules.

(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~~ the student transfers to under this section remains in effect 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~~ is classified by the state board as a public ~~school or~~ school district in ~~academic distress~~ need of Level 5 – intensive support under §§ 6-15-2913 or 6-15-2915 or a public school that does not have a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules 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~~ need of Level 5 – intensive support under §§ 6-15-2913 or 6-15-2915 or a public school that does not have a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules and that is nearest to the student's legal residence.

(ii) ~~That~~ The school ~~or school~~ district under subdivision (b)(3)(B)(i) of this section 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~~ a student under subdivision (b)(3)(C)(i) of this section 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 under this section 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~~ is not 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~~ need of Level 5 - intensive support under §§ 6-15-2913 or 6-15-2915 or the transferring public school's receipt of a rating other than "F" under §§ 6-15-2105 and 6-15-2106 and state board rules, 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~~ A school district board of directors shall offer the opportunity public school choice option ~~within the~~ to public schools in the school district of the school district board of directors.

(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~~ the student's school district of choice due to lack of capacity to the state board 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~~ 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)(1) The department shall develop an annual report on ~~the status of~~ student participation in public school choice and opportunity school choice and deliver the report to the state board, the Governor, the House Committee on Education, the Senate Committee on Education, and the Legislative Council at least ~~ninety (90)~~ sixty (60) days before the convening of the regular session of the General Assembly.

(2) The annual report required under subdivision (f)(1) of this section shall include without limitation:

(A) The number of public school students participating in:

(i) Public School Choice under § 6-18-1901 et seq.;

and

(ii) Opportunity Public School Choice under this section, disaggregated by whether the transfer under this section was from within a public school district or outside a public school district; and

(B) Aggregate data of the race and gender of students participating in public school choice and opportunity school choice.

(3) Each public school district shall report to the department

annually the information necessary to complete the report required under subdivision (f)(1) of this section.

~~(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)(g)(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)(h)~~ 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)(i)(1)~~ Unless excused by the receiving school district for illness or other good cause:

(A) Any student participating in the opportunity public school choice option shall remain:

(i) Remain in attendance throughout the school year; and ~~shall comply~~

(ii) 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.

~~(1)(1)(j)(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)(2)~~ The A public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

~~(m)(k)~~ The state board shall adopt any rules necessary for the implementation of this section ~~pursuant to~~ under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

~~(n)(1)~~ A district under the public school choice program under this section 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 under this section, the application deadline, and the requirements and procedure for nonresident students to participate in the program under this section.

SECTION 2. Arkansas Code § 6-18-1905(a) and (b), concerning a student's application for a transfer under the Public School Choice Act of 2015, are amended to read as follows:

(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, ~~which shall notify the resident district of the filing of the application within ten (10) calendar days of receipt of the application~~ with a copy to the student's resident district;

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

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

(b) A Both the nonresident district and the resident 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~~ each district received the application.

SECTION 3. Arkansas Code § 6-18-1905(d), concerning the acceptance or rejection of a student's application for transfer under the Public School Choice Act of 2015, is amended to read as follows:

(d) Before accepting or rejecting an application, a nonresident district shall determine whether ~~one~~:

(1) One of the limitations under § 6-18-1906 applies to the application; and

(2)(A) The resident district has met its numerical net maximum limit on school choice transfers under § 6-18-1906.

(B) The nonresident district shall contact the resident district to determine whether the resident district has met its net maximum limit under subdivision (d)(2)(A) of this section.

(C) In determining whether a resident district has met its net maximum limit on school choice transfers under subdivision (d)(2)(A) of this section, the 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) If the resident district has met its numerical net maximum limit on school choice transfers, the nonresident district shall issue a rejection of the affected school choice application.

(E)(i) If an applicant under this section has been rejected due to the numerical net maximum limit, then the applicant shall retain priority for a transfer under this subchapter until July 1 and be reconsidered when the resident district is no longer at the numerical net maximum limit.

(ii) The resident district shall promptly notify the nonresident district when it is no longer at its numerical net maximum limit.

SECTION 4. Arkansas Code § 6-18-1906(b)(1)(A), concerning a numerical net maximum limit on school choice transfers under the Public School Choice Act of 2015, is amended to read as follows:

(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 enrollment that exists in the school district as of October ~~15~~ 1 of the immediately preceding school year.

/s/Lowery

APPROVED: 4/5/19