

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
90th General Assembly  
Regular Session, 2015

# A Bill

HOUSE BILL 1593

By: Representative Ballinger

## For An Act To Be Entitled

AN ACT TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013;  
TO ADD PRIVATE SCHOOLS AS A SCHOOL CHOICE OPTION; TO  
MODIFY THE TRANSFER CAP; TO DECLARE AN EMERGENCY; AND  
FOR OTHER PURPOSES.

## Subtitle

TO ADD PRIVATE SCHOOLS AS A SCHOOL CHOICE  
OPTION; TO MODIFY THE TRANSFER CAP; AND  
TO DECLARE AN EMERGENCY.

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

Subchapter 19 – ~~Public~~ School Choice Act of ~~2013~~ 2015

SECTION 1. Arkansas Code Title 6, Chapter 18, Subchapter 19 is amended to read as follows:

6-18-1901. Title – Legislative findings.

(a) This subchapter shall be known and may be cited as the “~~Public~~ School Choice Act of ~~2013~~ 2015”.

(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.

6-18-1902. Definitions.

As used in this subchapter:

(1)(A) "Adequate funding amount" means the amount of funding a resident district receives for an eligible student from state and local sources to make up the foundation funding amount under § 6-20-2305(a)(2) and the professional development funding amount provided to school districts under § 6-20-2305(b)(5).

(B) The adequate funding amount is the entitlement of an eligible student under the supervision of the student's parent and not that of a school district, public school, or private school;

(2) "Choice school" means a public or private school to which an eligible student transfers;

(3) "Eligible student" means a student who is eligible to attend an elementary or secondary public school during the fall semester of the school year in which the student seeks to enroll in a choice school or nonresident district under this subchapter;

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

~~(2)~~(5) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

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

~~(4)~~(7) "Transfer student" means a ~~public school~~ an eligible

student who transfers to a ~~nonresident district~~ choice school through a ~~public~~ school choice option under this subchapter.

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

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

(b)(1) Each school district shall participate in a ~~public~~ school choice program consistent with this subchapter.

(c) This subchapter does not require a choice school or 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 choice school or 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 choice school's or 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.

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 choice school or nonresident school under this subchapter may complete all remaining school years at the choice school or nonresident district.

(2) A present or future sibling of a student who continues enrollment in the choice school or nonresident district under this subsection may enroll in or continue enrollment in the choice school or nonresident district until the sibling of the transfer student completes his or her secondary education, if the choice school or nonresident 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 choice school or to and from a bus stop of a choice school in the nonresident district where the transfer student is enrolled.

- (2) The choice school or 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:

(1) ~~nonresident~~ Nonresident district where the transfer student is enrolled, if the transfer student enrolls in a school in a nonresident district; or

(2)(A) Resident district if the transfer student is enrolled in a choice school that is a private school in the resident district.

(B)(i) The Department of Education shall calculate the adequate funding amount for transfer students under subdivision (e)(2)(A) of this section and distribute the funding to the private school where the transfer student is attending by September 1 for the fall semester and by February 1 for the spring semester.

(ii) The adequate funding amount for a student choosing to attend a private school is limited to sixty-five percent (65%) of the amount deemed adequate for a student choosing to attend a public school.

(C) Funding distributed to a private school by the department shall be used only for educational purposes, including without limitation salaries of school personnel, books, curriculum, supplies, uniforms, application fees, athletic fees, and activity fees.

(D) A private school that receives funds in excess of those needed for educational purposes shall return the excess funds to the department within sixty (60) days of receiving the funds.

(E) If the cost of attending a private school exceeds the amount of funds received by the department for the transfer student, the parent is responsible for the additional cost.

(F) A private school shall not refund, rebate, or share any funds received by the department with a parent or student.

6-18-1905. Application for a transfer.

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

(1) To the choice school or 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 choice school or nonresident district.

(b)(1) By ~~August~~ July 1 of the school year in which the student seeks to enroll in a choice school or nonresident district under this subchapter, the director of the choice school or 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 to attend a choice school or nonresident district is rejected, the director of the choice school or superintendent of the nonresident district shall state in the notification letter the reason for rejection.

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

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

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

#### 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 Beginning on May 15, 2015 and by each April 1 thereafter, 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:~~

(i) 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;

(ii) Students with individualized education plans shall not be counted in the numerator as transfer students; and

(iii) Students transferring from a school or school district in academic distress shall not be counted in the numerator as transfer students.

(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.

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(b)(2) 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.

~~6-18-1908. Effective date.~~

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

6-18-1909. Participating private school autonomy.

(a) A private school accepting a student under the school choice program shall comply with existing state laws governing private schools that are in effect on June 30, 2014 and are not subject to any extra requirements or scrutiny.

(b) A private school is autonomous and not an agent of the state or federal government. The Department of Education or any other state or

federal agency shall not regulate the educational program or admissions requirements of a private school.

(c) This subchapter does not intend to increase the authority of the state or the department over private schools, including without limitation a private school's mission, worldview, curriculum, educational programs, disciplinary procedures, traditions, staff, or operating guidelines.

(d) Funds transferred by the department to a participating private school as a result of parental choice does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that that ensuring the appropriate education of Arkansas children is the responsibility of the state and parents; that parents are in the best position to decide which educational environment is best for their children; and that this act is immediately necessary because to ensure that a school choice option is available 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.