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**DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING PUBLIC SCHOOL CHOICE**

Effective: ~~May 2, 2022~~

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~~DIVISION OF ELEMENTARY AND SECONDARY EDUCATION~~
~~RULES GOVERNING PUBLIC SCHOOL CHOICE~~

CHAPTER 1:
REGULATORY AUTHORITY, PURPOSE, AND DEFINITIONS

1-1.00 REGULATORY AUTHORITY AND PURPOSE

- 1-1.01 These rules shall be known as the Division of Elementary and Secondary Education Rules Governing Public School Choice.
- 1-1.02 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by Ark. Code Ann. §§ 6-18-227 and 6-18-1901 et seq.
- 1-1.03 The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of 2015 and the Opportunity Public School Choice Act.

1-2.00 DEFINITIONS

As used in these rules:

- 1-2.01 “Division” means the Division of Elementary and Secondary Education.
- 1-2.02 ~~“Military Family” means the family of a student whose parent or guardian is an active duty member of the military who has been transferred to and resides on a military base.~~ “Lack of capacity” means a school district has reached the maximum student-to-teacher ratio allowed under federal law, state law, the rules for the standards for accreditation, state rules, or other applicable federal regulations.
- 1-2.03 “Nonresident District” means a school district other than a student’s resident district to which a student transfers or seeks to transfer.
- 1-2.04 “Nonresident or receiving school” means the public school to which a student transfers or seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227. A nonresident or receiving school may be a public school within the resident district or a public school within a nonresident district.
- 1-2.05 “Parent or guardian” means a student’s parent, legal guardian, person having lawful control of the student, or person standing in loco parentis.
- 1-2.06 “Resident district” means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202 and from which the student seeks to transfer.

- 1-2.07 “Resident or transferring school” means the public school in which the student is enrolled at the time of application and from which the student seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.
- 1-2.08 “Sibling” means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and.
- 1-2.09 “Transfer student” means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option.
- 1-2.10 “Uniformed service member” means an active or reserve component member of the:
- 1-2.10.1 United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Space Force, or United States Coast Guard;
- 1-2.10.2 National Oceanic and Atmospheric Administration Commissioned Officer Corps; or
- 1-2.10.3 United States Commissioned Corps of the Public Health Service.
- 1-2.11 “Uniformed service veteran” means a former uniformed service member who has been discharged under conditions other than dishonorable.

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CHAPTER 2:
THE ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015

2-1.00 ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM

- 2-1.01 A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under Ark. Code Ann. § 6-18-1906 and Section 2-4.00 of these rules.
- 2-1.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.
- 2-1.03 ~~These rules do not require a school district to add teachers, staff, or classrooms, or in any way to exceed the requirements and standards established by existing law.~~ A school district shall not deny a student the ability to attend a school in the student's school district of choice unless there is a lack of capacity at the school in the student's school district of choice.
- 2-1.04 The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules. The standards:
- 2-1.04.1 May include without limitation the capacity of a program, class, grade level, or school building;
- 2-1.04.2 May include a claim of a lack of capacity by a school district only if the school district has reached ~~at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building~~ the maximum student-to-teacher ratio allowed under federal law, state law, the rules for standards of accreditation, or other applicable regulations;
- 2-1.04.2.1 A lack of capacity claim must be consistent with state and federal law.
- 2-1.04.3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:
- 2-1.04.3.1 Resides in the same household; and
- 2-1.04.3.2 Is already enrolled in the nonresident district by choice.

- 2-1.04.4 Shall not include an applicant's:
- 2-1.04.4.1 Academic achievement;
 - 2-1.04.4.2 Athletic or other extracurricular ability;
 - 2-1.04.4.3 English proficiency level; or
 - 2-1.04.4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.
- 2-1.04.5 A school district receiving transfers under the Public School Choice Act of 2015 and these rules shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.
- 2-1.05 Each school district shall have a policy stating the method by which a parent or guardian of a student may submit a school choice application, including without limitation:
- 2-1.05.1 Regular mail;
 - 2-1.05.2 Email; and
 - 2-1.05.3 Hand delivery.
- 2-1.06 A public school district shall not require an applicant to file in-person filing of an application in person.
- 2-1.07 A nonresident district shall:
- 2-1.07.1 Accept credits toward graduation that were awarded by another district; and
 - 2-1.07.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.
- 2-1.08 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:
- 2-1.08.1 Availability of the program;
 - 2-1.08.2 Application deadline;

2-1.08.3 Requirements and procedure for nonresident students to participate in the program; and

2-1.08-4 The primary point of contact at the District for school choice questions.

2-2.00 GENERAL PROVISIONS

2-2.01 The transfer of a student under the Arkansas Public School Choice Act of 1989 (Ark. Code Ann. § 6-18-206 [repealed]) or the Public School Choice Act of 2013, is not voided by Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules and shall be treated as a transfer under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.

2-2.01.1 Districts that are subject to a federal court order requiring the districts to abide by the provisions of the Arkansas Public School Choice Act of 1989 and the corresponding rules are not subject to the requirements of the Public School Choice Act of 2015 or these rules.

2-2.02 A student may accept only one (1) school choice transfer per school year.

2-2.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.

2-2.02.2 If a transferred student returns to his or her resident district or enrolls in a private or home school, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

2-2.03 A transfer student attending a nonresident school under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules may complete all remaining school years at the nonresident district.

2-2.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 2-2.03 of these rules and applies for a school choice transfer under Ark. Code Ann. § 6-18-1905 may enroll in the nonresident district if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

2-2.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under Section 2.03 of these rules may complete all remaining years at the nonresident district.

2-2.04 The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

2-2.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

2-2.05 For purposes of determining a school district's state aid, a transfer student is counted as part of the average daily membership of the nonresident district where the transfer student is enrolled.

2-2.06 A student who transfers to a nonresident school district under this chapter shall not be:

2-2.06.1 Denied participation in an extracurricular activity at the nonresident school district to which he or she transfers based exclusively on his or her decision to transfer to the nonresident school district; or

2-2.06.2 Disciplined in any manner based exclusively on the exercise of his or her right to transfer to another nonresident school district under this subchapter.

2-2.07 A student who transfers to a nonresident school district under this section shall complete a Changing Schools/Athletic Participation form pursuant to the requirements of Ark. Code Ann. §6-18-1904(f)(2).

2-3.00 APPLICATION FOR TRANSFER

2-3.01 If a student seeks to attend a school in a nonresident district, the student's parent or guardian, or student over the age of eighteen (18), shall submit an application:

2-3.01.1 To the nonresident district and to the student's resident district;

2-3.01.2 On the form approved by the Division; and

2-3.01.3 Postmarked or delivered no earlier than January 1 and no later than May 1 of the year in which the student seeks to begin the fall semester at the nonresident district, except as otherwise provided for dependents of uniformed service members and uniformed service veterans in Chapter 4 of this rule.

2-3.02 Both the resident district and the nonresident district shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time each district received the application.

2-3.03 Before accepting or rejecting an application, a nonresident district shall determine whether the limitations of Section 2-4.00 applies to the application.≠

~~2-3.03.1 One of the limitations under Ark. Code Ann. § 6-18-1906 and Chapter 2, Section 2-4.00 of these rules this rule applies to the application; and~~

~~2-3.03.2 The resident district has met its numerical net maximum limit on school choice transfers under Ark. Code Ann. § 6-18-1906.~~

~~2-3.03.2.1 The nonresident district shall contact the resident district to determine whether the resident district has met its net maximum limit on school choice transfers.~~

~~2-3.03.2.2 In determining whether a resident district has met its net maximum limit on school choice transfers, 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.~~

~~2-3.03.2.3 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.~~

~~2-3.03.2.4 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 these rules until July 1 and be reconsidered when the resident district is no longer at the numerical net maximum limit.~~

~~2-3.03.2.5 The resident district shall promptly notify the nonresident district when it is no longer at its numerical net maximum limit.~~

~~2-3.03.2.6~~ 2-3.03.1 Nothing in this section shall be construed to require a student transfer before the end of the school year.

2-3.04 Except as provided in Chapter 4, Section ~~4-2.00~~ of these rules, by July 1 of the school year in which the student seeks to enroll in a nonresident district under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules, 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. for each application received under this rule, the nonresident district shall notify the applicant in writing as to whether the student's application has been accepted or rejected within fifteen (15) calendar days of the nonresident district's receipt of the application.

2-3.04.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.

~~2-3.04.2 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.~~

2-3.04.2 A transfer under this chapter is effective:

2-3.04.2.1 At the time the non-resident district provides notice that the application is accepted; or

2-3.04.2.2. At the time the application on appeal is approved by the State Board of Education.

2-3.04.3 A student who has an effective transfer under this chapter may:

2-3.04.3.1 Immediately transfer to the new district; or

2-3.04.3.2. Transfer to the new district at the beginning of the following school year.

2-3.04.3.2.a If the student elects to remain at the district the student attended at the time the application was filed for the remainder of the school year, the district shall continue to provide all educational services for that student for the remainder of the school year and the student shall continue to be counted towards the district's average daily attendance for the remainder of that school year.

2-4.00 LIMITATIONS

2-4.01 If the provisions of Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules conflict with a provision of an enforceable desegregation court order or a district's court-approved desegregation plan, either of which explicitly limits the transfer of students between school districts, the provisions of the order or plan shall govern.

2-4.01.1 Annually by January 1, a school district that claims a conflict under Section 2-4.01 of these rules **shall** submit proof from a federal court to the Division of Elementary and Secondary Education that the school

district has a genuine conflict under an active desegregation order or active court-approved desegregation plan that explicitly limits the transfer of students between school districts.

- 2-4.01.2 A school district shall provide the information required under Section 2-4.01.1 of these rules to:

Division of Elementary and Secondary Education
Attn: Legal Services Unit
Four Capitol Mall
Little Rock, AR 72201

- 2-4.01.3 Proof submitted under Section 2-4.01.1 of these rules shall contain the following:

2-4.01.3.1 Documentation that the desegregation order or court-approved desegregation plan is still active and enforceable; and

2-4.01.3.2 Documentation showing the specific language the school district believes limits its participation in the school choice provisions of the Public School Choice Act of 2015.

- 2-4.01.4 Within thirty (30) calendar days of receipt of proof submitted under Section 2-4.01.1, the Division shall notify the school district whether it is required to participate in the school choice provisions of the Public School Choice Act of 2015.

2-4.01.4.1 The Division may reject incomplete submissions.

2-4.01.4.2 If the Division does not provide a written exemption to the school district, then the district shall be required to participate in the school choice provisions of the Public School Choice Act of 2015.

- 2-4.01.5 The Division shall maintain on its website a list of school districts that are not required to participate in the school choice provisions of the Public School Choice Act of 2015.

- 2-4.01.6 The State Board of Education may review a decision of the Division upon written petition of the affected school district and may affirm or reverse the decision of the Division.

~~2-4.02 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 Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these~~

~~rules of not more than three percent (3%) of the enrollment that exists in the school district as of October 1 of the immediately preceding school year.~~

~~2-4.02.1 If the application for a transfer that causes the school district to meet or exceed the three percent (3%) numerical net maximum limit under Section 2-4.02 is on behalf of a sibling group, then the school district shall allow all siblings in the sibling group to exercise school choice under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.~~

~~2-4.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-18-227, 6-18-233, or 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.~~

~~2-4.02.3 Annually by December 15, the Division of Elementary and Secondary Education shall report to each school district the net maximum number of school choice transfers for the next school year.~~

~~2-4.02.4 If a student is unable to transfer due to the limits under Section 2-4.02 of these rules, the resident district shall give the student priority for a transfer in the first school year in which the district is no longer subject to Ark. Code Ann. § 6-18-1906(b)(1) and Section 2-4.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 2-3.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.~~

2-5.00 APPEAL AND REPORTING

2-5.01 A parent or guardian, or student if the student is over eighteen (18) years of age, whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 2-3.00 of these rules is rejected may request a hearing before the State Board of Education to reconsider the application for transfer.

2-5.01.1 A request for a hearing before the State Board of Education shall be in writing and shall be postmarked no later than ten (10) calendar days, excluding weekends and legal holidays, after the student or the student's parent or guardian (hereafter "appealing party") receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 2-3.00 of these rules and shall be mailed to:

Division of Elementary and Secondary Education
Attn: Legal Services Unit
Four Capitol Mall
Little Rock, AR 72201

- 2-5.01.2 Contemporaneously with the filing of the written appeal with the Division's Legal Services Unit, the appealing party must also mail a copy of the written appeal to the superintendent of the nonresident school district.
- 2-5.01.3 In its written appeal, the appealing party shall state his or her basis for appealing the decision of the nonresident district.
- 2-5.01.4 The appealing party shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.
- 2-5.01.5 Upon receipt of the written appeal, the Division of Elementary and Secondary Education shall notify the nonresident and resident districts of the appeal. Both districts may submit, in writing, any additional information, evidence, or arguments supporting its rejection of the student's application by mailing such response to the State Board of Education. Such response shall be postmarked no later than ten (10) days after the districts receive notice of the student or parent's appeal. Any response shall be mailed to:

Division of Elementary and Secondary Education
Attn: Legal Services Unit
Four Capitol Mall
Little Rock, AR 72201

- 2-5.01.6 The Division shall notify the appealing party, the nonresident district, and the resident district of the date, time, and location of the hearing before the State Board of Education.
- 2-5.01.7 As part of the review process, the appealing party may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.
- 2-5.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the appealing party, the nonresident district, and the resident district of the basis for the State Board of Education's decision.
- 2-5.02 An applicant is not permitted to request a hearing before the State Board if his or her application for a transfer is rejected due to the application not being timely received by both the resident district and nonresident district.

2-5.03 The deadlines under this section may be waived by the State Board upon a finding that there was good cause for the failure to meet the deadline.

2-6.00 STATE BOARD HEARING PROCEDURES

The following procedures shall apply to hearings conducted by the State Board of Education:

- 2-6.01 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.
- 2-6.02 Each party that wishes to participate in the hearing may take up to ~~twenty (20)~~ fifteen (15) minutes to present its case, beginning with the nonresident school district, followed by the resident school district, and then the appealing party. The Chairperson of the State Board may, for good cause shown and upon request of the party, allow additional time to present their cases.
- 2-6.03 The State Board of Education, at its discretion, shall have the authority to require any person associated with the application to appear in person before the State Board as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration, or deposition.
- 2-6.04 The State Board of Education will grant or deny the appeal based upon the totality of evidence presented.
- 2-6.05 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. All discussion shall take place in an open meeting. The State Board shall provide a written decision to the Division of Elementary and Secondary Education, the appealing party, the nonresident district, and the resident district within fourteen (14) days of announcing its decision under this section.

~~**DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING PUBLIC SCHOOL CHOICE**~~

**CHAPTER 3:
THE OPPORTUNITY SCHOOL CHOICE ACT**

3-1.00 GENERAL REQUIREMENTS

- 3-1.01 Upon the request of a parent or guardian, or the student if the student is ~~over~~ eighteen (18) years of age or older, a student may transfer from his or her resident district or public school to another school district or public school under Opportunity School Choice if, at the time of the request either:
- 3-1.01.1 The resident public school district has been classified by the State Board of Education as a public school district in need of Level 5— Intensive support under § 6-15-2913 or 6-15-2915; or
 - 3-1.01.2 The resident public school has a rating of “F” under Ark. Code Ann. §§ 6-15-2105 and 6-15-2106; and
 - 3-1.01.3 Except as provided in Chapter 4 of these rules, a parent or guardian, or the student if the student is over eighteen (18) years of age, has notified both the resident and nonresident school districts of any request to transfer no earlier than January 1 and no later than May 1 of the school year before the school year in which the student intends to transfer.
- 3-1.02 For each student enrolled in or assigned to a public school district that is classified by the State Board as a public school district in need of Level 5 – Intensive support or a public school within the resident district that has a rating of “F,” the school district shall:
- 3-1.02.1 Timely notify the parent or guardian, or the student if the student is over eighteen (18) years of age, as soon as practicable after the designation is made of the options available under Chapter 3 of these rules;
 - 3-1.02.2 Offer that person an opportunity to submit an application no earlier than January 1 and no later than May 1 (except as provided in Chapter 4 of these Rules) to enroll the student in the upcoming school year in any public school district that is not classified as in need of Level 5 – Intensive support or public school within the resident district that does not have a rating of “F.”
- 3-1.03 If a student is enrolled in or assigned to a public school district that is classified by the State Board as a public school district in need of Level 5 – Intensive

support or a public school within the resident district that has a rating of “F,” the parent or guardian, or student if the student is over eighteen (18) years of age, may choose to:

- 3-1.03.1 Apply to enroll the student in a legally allowable public school district that is not classified as a public school district in need of Level 5 – Intensive support; or
 - 3-1.03.2 Apply to enroll the student in a public school within the resident district that does not have a rating of “F” and that is nearest the legal residence of the student. If there is no public school within the resident district that does not have a rating of “F,” the parent or guardian, or the student if the student is over eighteen (18) years of age, may apply to enroll the student in a nonresident public school district and, if accepted, be placed in a public school that does not have a rating of “F.”
- 3-1.04 Except as provided in Chapter 4 of these rules, by July 1 of the school year in which the student seeks to enroll in a nonresident district, the nonresident district shall notify the applicant and the resident district in writing as to whether the application has been accepted or rejected. If the applicant has applied to attend a school within the student’s resident district, the resident district shall notify the applicant in writing as to whether the student’s application has been accepted or rejected by July 1. ~~for each application received under this chapter, the nonresident district shall notify the applicant in writing as to whether the student’s application has been accepted or rejected within fifteen (15) calendar days of the nonresident district’s receipt of the application.~~ The notification shall be sent via First-Class Mail to the address on the application.
- 3-1.04.1 If the application is accepted, the superintendent of the nonresident district shall state in the notification letter the deadline by which the student must enroll in the receiving school.
 - 3-1.04.2 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the specific reasons for the rejection.
 - 3-1.04.3 A school district shall not deny a student the ability to transfer to a nonresident school under these rules unless there is a lack of capacity at the nonresident school.
 - 3.1.04.4 A lack of capacity may be claimed by a school district only if the nonresident school has reached the maximum student-to-teacher ratio allowed under federal law, state law, the Rules Governing the Standards for Accreditation, or other applicable federal regulations. For the purposes of these rules, a school district may claim a lack of capacity if, as of the date the application for opportunity school choice

is made, ninety-five percent (95%) or more of the seats at the grade level at the nonresident school are filled.

- 3-1.04.5 ~~The race or ethnicity of a student shall not be used to deny a student the ability to attend a nonresident school under these rules. A school district receiving transfers under this rule shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.~~
- 3-1.04.6 An applicant may appeal a school district's decision to deny a student admission to a school in the student's school district of choice due to a lack of capacity to the State Board of Education by postmarking or delivering the appeal within ten (10) days after the applicant receives written notice from the nonresident district that admission has been denied.
- 3-1.04.7 If any provision of these rules conflicts with a federal desegregation court order applicable to a school district, the federal desegregation court order shall govern.
- 3-1.05 For the purposes of continuity of educational choice, a transfer under this Chapter shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until:
- 3-1.05.1 The student completes high school; or,
- 3-1.05.2 The parent or guardian, or 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.
- 3-1.06 Except as provided in Chapter 4 of this rule, ~~Section 4-1.03 of these Rules~~, a transfer under this Chapter is effective at the beginning of the next ~~academic~~ school year.
- 3-1.07 Students with disabilities who are eligible to receive services from the transferring 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 Opportunity Public School Choice Act program, shall remain eligible to receive services from the receiving school district as provided by state or federal law. Any funding for the student shall be transferred to the school district to which the student transfers.
- 3-1.08 The receiving public school or school district 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 Sections 3-1.08.1 and 3-1.08.2 of these rules.

- 3-1.08.1 A transferring public school or school district shall not be required to spend more than four hundred dollars (\$400) per student per school year for transportation required under Section 3-1.08 of these rules.
- 3-1.08.2 Upon the transferring public school district's removal from classification as a public school district in need of Level 5 – Intensive support or the transferring public school's receipt of a rating other than "F," 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 transportation shall be the responsibility of the parent or guardian or of the receiving public school district if the receiving public school district agrees to bear the transportation costs.
- 3-1.09 Unless excused by the school for illness or other good cause:
- 3-1.09.1 Any student participating in the Opportunity Public School Choice option shall remain in attendance throughout the school year and shall comply fully with the receiving school's code of conduct; and
- 3-1.09.2 The parent or guardian of each student participating in the Opportunity Public School Choice option shall comply fully with the receiving school's parental involvement requirements.
- 3-1.09.3 A participant who fails to comply with this section shall forfeit the Opportunity School Choice option.
- 3-1.10 A receiving district shall accept credits toward graduation that were awarded by another district.
- 3-1.11 The receiving district shall award a diploma to a student transferred under these rules if the student meets the receiving district's graduation requirements.
- 3-1.12 A district under the Opportunity Public School Choice program 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, the application deadline, and the requirements and procedure for nonresident students to participate in the program.
- 3-1.13 A student who transfers to another public school or a nonresident school district under this chapter shall not be:
- 3-1.13.1 Denied participation in an extracurricular activity at the public school or nonresident school district to which he or she transfers based

exclusively on his or her decision to transfer to the public school or nonresident school district; or

3-1.13.2 Disciplined in any manner based exclusively on the exercise of his or her right to transfer to another public school or a nonresident school district under this subchapter.

3-1.14 A student who transfers to a nonresident school district under this section shall complete a Changing Schools/Athletic Participation form pursuant to the requirements of Ark. Code Ann. §6-18-1904(f).

3-2.00 REPORTING REQUIREMENTS

3-2.01 The Division of Elementary and Secondary Education shall develop an annual report on student participation in public school choice and opportunity school choice and deliver the report to the State Board of Education, the Governor, the House Committee on Education, the Senate Committee on Education, and the Legislative Council at least sixty (60) days prior to the convening of the regular session of the General Assembly.

3-2.02 The annual report shall include without limitation:

3-2.02.1 The number of public school students participating in:

3-2.02.1.1 Public School Choice under Ark. Code Ann. § 6-18-1901 et seq.; and

3-2.02.1.2 Opportunity School Choice under Ark. Code Ann. § 6-18-227, disaggregated by whether the transfer was from within a public school district or outside a public school district.

3-2.02.2 Aggregate data of the race and gender of students participating in public school choice and opportunity school choice.

3-2.03 Each public school district shall annually report to the Division:

3-2.03.1 The number of students applying for a transfer to a nonresident school district under Public School Choice;

3-2.03.2 The number of students applying for a transfer to a nonresident school within the resident district under Opportunity School Choice; and

3-2.03.3 The number of students applying for a transfer to a nonresident school outside of the resident district under Opportunity School Choice.

3-2.04 The school district shall report the data required by Section 3-2.03 above through its cycle reports as prescribed by the Commissioner of **Elementary and Secondary Education**.

3-3.00 FUNDING CONSIDERATIONS

3-3.01 For the 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 receiving district.

3-3.02 The maximum Opportunity Public School Choice funds granted for an eligible student shall be calculated based on applicable state law.

3-3.03 The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

3-4.00 APPEAL PROCEDURES

3-4.01 A parent or guardian, or the student if the student is over eighteen (18) years of age, may appeal a school district's decision to deny admission to a nonresident school due to a lack of capacity to the State Board of Education pursuant to this section.

3-4.02 The appealing party must present a written appeal to the State Board of Education via certified mail, return receipt requested, no later than ten (10) calendar days, excluding weekends and legal holidays, after the appealing party receives notice of rejection from the superintendent of the nonresident district in accordance with Section 3-1.05 of this Chapter.

3-4.02.1 The written appeal should be sent to:

Division of Elementary and Secondary Education
Attn: Legal Services Unit
Four Capitol Mall
Little Rock, AR 72201

3-4.02.2 Contemporaneously with the filing of the written appeal with the Division's Legal Services Unit, the appealing party must also mail a copy of the written appeal to the superintendent of the nonresident school district.

3-4.02.3 In its written appeal, the appealing party shall state his or her basis for appealing the decision of the nonresident district.

3-4.02.4 The appealing party must submit, along with its written appeal, a copy of the rejection letter from the nonresident district.

- 3-4.02.5 Any request for a hearing before the State Board of Education must be made in the written appeal.
- 3-4.03 The nonresident district may submit, in writing, any additional information, evidence or arguments supporting its rejection of the student's application by mailing such response via certified mail, return receipt requested to the State Board of Education no later than ten (10) days after receiving the appealing party's written appeal.
- 3-4.03.1 Any response from the nonresident district should be sent to:
- Division of Elementary and Secondary Education
Attn: Legal Services Unit
Four Capitol Mall
Little Rock, AR 72201
- 3-4.03.2 Contemporaneously with the filing of the written response with the Division's Legal Services Unit, the nonresident district must also mail a copy of the written response to the appealing party.
- 3-4.03.3 If the appealing party did not request a hearing before the State Board of Education, the nonresident district may request a hearing in its response.
- 3-4.04 If a hearing is requested by either party, the State Board of Education shall schedule the hearing for the next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.
- 3-4.05 If no hearing is requested by either party, the State Board of Education shall consider the appeal during its next regularly scheduled State Board of Education meeting in accordance with its procedures for the submission of agenda items.
- 3-4.06 State Board of Education Hearing Procedures shall be the same as set forth in Section 2-6.00 of these rules.
- 3-4.07 An applicant is not permitted to request a hearing before the State Board if his or her application for a transfer is rejected due to the application not being timely received by the nonresident district.

3-4.08 The deadlines under this section may be waived by the State Board upon a finding that there was good cause for the failure to meet the deadline.

~~**DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING PUBLIC SCHOOL CHOICE**~~

**CHAPTER 4:
SCHOOL CHOICE FOR MILITARY FAMILIES UNIFORMED SERVICE MEMBERS**

4-1.00 PUBLIC SCHOOL CHOICE FOR MILITARY FAMILIES STUDENTS OF UNIFORMED SERVICE MEMBERS

~~4-1.01 If a student has a parent or guardian who is an active duty member of the military and who has been transferred to and resides on a military base, then the student's parent or guardian may file an application for a school choice transfer under Chapters 2 and 3 of these rules within fifteen (15) days of the parent's or guardian's arrival on the military base, which shall include without limitation the parent's or guardian's:~~

~~4-1.01.1 Military transfer orders; and~~

~~4-1.01.2 Proof of residency on the military base.~~

~~4-1.02 A military family's application for a transfer is not subject to the January 1 through May 1 time restriction under these rules if the student's parent or legal guardian:~~

~~4-1.02.1 Has been transferred to and resides on a military base; and~~

~~4-1.02.2 Provides military transfer orders that confirm the date of transfer to the military base.; and~~

~~4-1.02.3 Postmarks or delivers the application within fifteen (15) days of arrival on the military base to both the resident district and the nonresident district.~~

~~4-2.03 A transfer under this Chapter for a student who has a parent or guardian who is an active duty member of the military and who resides on a military base is effective upon the approval of the accepting school board at its next meeting.~~

4-1.01 A child shall be eligible for enrollment in the public school district of his or her choice if he or she is a dependent of a:

4-1.01.1 Uniformed service member in full-time active-duty status;

4-1.01.2 Surviving spouse of a uniformed service member;

4-1.01.3 Reserve component uniformed service member during the period six (6) months before until six (6) months after a Title 10, Title 32, or state active duty mobilization and service; or

4-1.01.4 Uniformed service veteran who is returning to civilian status at the conclusion of the uniformed service veteran's active duty status.

4-1.02 If a student eligible under Section 4-1.01 seeks to attend a school in a nonresident district, the student's parent, legal guardian, or person standing in loco parentis to the student shall submit an application approved by the Division of Elementary and Secondary Education by regular mail, electronic mail, or in person to the student's nonresident district and resident district, which includes:

4-1.02.1 A copy of the identification card of the student's parent, legal guardian, or person standing in loco parentis that qualifies the student under this section; and

4-1.02.2 A copy of the official orders, assignment notification, or notice of mobilization of the student's parent, legal guardian, or person standing in loco parentis.

4-1.03 An application deadline required under this rule shall not apply to a school transfer under this chapter.

4-1.04 A student eligible for a school transfer under this chapter shall be permitted only one (1) school transfer per school year under this rule.

4-1.05 The parent, legal guardian, or person standing in loco parentis to a student eligible for a school transfer under this rule shall be responsible for the transportation of his or her child to and from a nonresident district.

4-1.06 For each application received under this chapter, the nonresident district shall notify the applicant in writing as to whether the student's application has been accepted or rejected within fifteen (15) calendar days of the nonresident district's receipt of the application. The notification shall be sent via First-Class Mail to the address on the application.

CHAPTER 5:
REPORTING REQUIREMENT

5-1.00 General Provisions

5-1.01 A school district shall submit a report to the Division of Elementary and Secondary Education, satisfying the requirements of Section 5-1.02, if the total number of students who have transferred to a contiguous school district using a school choice or legal transfer provision is greater than twenty (20) percent of the current number of students attending the district.

5-1.01.1 A student will not be included in the calculation required under Section 5-1.01 or the report required under Section 5-1.01 if, according to the school district's records, that student is 18 years of age or older.

5-1.02 A report required under Section 5-1.01 shall include the following information:

5-1.02.1 The total number of students who have transferred to a contiguous school district using a school choice or legal transfer provision;

5-1.02.2 The number of students who have transferred to each contiguous school district using a school choice or legal transfer provision; and

5-1.02.3 The age and approximant geographic area of each student who has transferred to a contiguous school district using a school choice or legal transfer provision.

5-1.03 A report required under Section 5-1.01 shall be submitted in writing to the Office of School Choice by mail using the information provided:

Arkansas Department of Education
Attn: Office of School Choice
Four Capitol Mall
Little Rock, Arkansas 72201

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 458

5 By: Senator J. English
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2015;
9 TO PROVIDE SCHOOL CHOICE FOR CHILDREN OF UNIFORMED
10 SERVICES FAMILIES; TO AMEND ACTS 2023, NO. 237, TO
11 AMEND THE ELIGIBILITY OF CHILDREN OF ACTIVE DUTY
12 UNIFORMED SERVICES PERSONNEL TO PARTICIPATE IN THE
13 ARKANSAS CHILDREN'S EDUCATIONAL FREEDOM ACCOUNT
14 PROGRAM; AND FOR OTHER PURPOSES.
15
16

Subtitle

17
18 TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF
19 2015; AND TO AMEND THE ELIGIBILITY OF
20 CHILDREN OF ACTIVE DUTY UNIFORMED
21 SERVICES PERSONNEL TO PARTICIPATE IN THE
22 ARKANSAS CHILDREN'S EDUCATIONAL FREEDOM
23 ACCOUNT PROGRAM.
24
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. DO NOT CODIFY. Legislative intent.

29 The General Assembly finds that:

30 (1) The State of Arkansas has demonstrated a strong commitment
31 to uniformed service families;

32 (2) The influx of new uniformed service families and the
33 turnover of the current force complicates the challenges faced by uniformed
34 service families in determining the best education program to meet their
35 children's educational needs, especially in light of the limited available
36 and affordable family housing options;



1 (3) Resident public school districts have generally rejected
2 uniformed service families’ requests to permit their children to attend a
3 public school within the public school district in which they will live upon
4 the availability of permanent housing, which doubles the number of school
5 transitions children of uniformed service families undergo during a typical
6 three-year assignment;

7 (4) Effective school transitions for children of uniformed
8 service families are further adversely impacted when uniformed service
9 families arrive after the May 1 deadline by which students must apply for
10 school transfers, and removing this deadline for children of uniformed
11 service families addresses a growing problem in the Little Rock Air Force
12 Base off-base community and proactively interdicts a major problem in the
13 Fort Smith area with the anticipated arrival of the F-35 and F-16 training
14 center personnel;

15 (5) Separating the public school district commitment from the
16 housing decisions of uniformed service families by providing uniformed
17 service families with a public school to public school choice option for
18 their children relieves the conflict faced by the uniformed service families
19 and maximizes the potential for educational success for children of uniformed
20 service families; and

21 (6) By amending portions of relevant law to change the term
22 "military" to instead read "uniformed services", the General Assembly can
23 ensure better continuity of access to educational programs for children of
24 all uniformed service families and alignment among all school choice programs
25 in the State of Arkansas.

26
27 SECTION 2. Arkansas Code § 6-18-1902 is amended to read as follows:

28 6-18-1902. Definitions.

29 As used in this subchapter:

30 (1) “Nonresident district” means a school district other than a
31 student’s resident district;

32 (2) “Parent” means a student’s parent, guardian, or other person
33 having custody or care of the student;

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

36 (4) “Transfer student” means a public school student in

1 kindergarten through grade twelve (K-12) who transfers to a nonresident
 2 district through a public school choice option under this subchapter;

3 (5) "Uniformed service member" means an active or reserve
 4 component member of the:

5 (A) United States Army, United States Navy, United States
 6 Air Force, United States Marine Corps, United States Space Force, or United
 7 States Coast Guard;

8 (B) National Oceanic and Atmospheric Administration
 9 Commissioned Officer Corps; or

10 (C) United States Commissioned Corps of the Public Health
 11 Service; and

12 (6) "Uniformed service veteran" means a former uniformed service
 13 member who has been discharged under conditions other than dishonorable.

14
 15 SECTION 3. Arkansas Code § 6-18-1905(a)(3), concerning an application
 16 submitted by a student seeking to attend a school in a nonresident district,
 17 is amended to read as follows:

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

20 (A) To the nonresident district and to the student's
 21 resident district;

22 (B)~~(i)~~ On a form approved by the Division of Elementary
 23 and Secondary Education-

24 ~~(ii) If a student has a parent or guardian who is an~~
 25 ~~active-duty member of the military and who has been transferred to and~~
 26 ~~resides on a military base, then the student's parent or guardian shall file~~
 27 ~~an application for transfer under this section within fifteen (15) days of~~
 28 ~~the parent's or guardian's arrival on the military base, which shall include~~
 29 ~~without limitation the parent's or guardian's:~~

30 ~~(a) Military transfer orders; and~~

31 ~~(b) Proof of residency on the military base;~~

32 and

33 (C)~~(i)~~ Postmarked or delivered no later than May 1 of the
 34 year in which the student seeks to begin the fall semester at the nonresident
 35 district.

36 ~~(ii) However, if a student has a parent or guardian~~

1 ~~who is an active duty member of the military, then the student's application~~
 2 ~~for a transfer under this section is not subject to the May 1 deadline under~~
 3 ~~subdivision (a)(3)(C)(i) of this section if the student's parent or legal~~
 4 ~~guardian;~~

5 ~~(a) Has been transferred to and resides on a~~
 6 ~~military base; and~~

7 ~~(b) Provides military transfer orders that~~
 8 ~~confirm the date of transfer to the military base.~~

9
 10 SECTION 4. Arkansas Code § 6-18-1905(d) and (e), concerning the
 11 acceptance or rejection of an application to attend a school in a nonresident
 12 district, are amended to read as follows:

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

15 ~~(1) One (1) of the limitations limitation under § 6-18-1906~~
 16 ~~applies to the application; and.~~

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

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

22 ~~(C) In determining whether a resident district has met its~~
 23 ~~net maximum limit on school choice transfers under subdivision (d)(2)(A) of~~
 24 ~~this section, the nonresident district shall review and make a determination~~
 25 ~~on each application in the order in which the application was received by the~~
 26 ~~nonresident district.~~

27 ~~(D) If the resident district has met its numerical net~~
 28 ~~maximum limit on school choice transfers, the nonresident district shall~~
 29 ~~issue a rejection of the affected school choice application.~~

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

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

1 (e)(1) ~~Except as provided in subdivision (e)(4) of this section, by~~ By
2 July 1 of the school year in which ~~the~~ a student seeks to enroll in a
3 nonresident district under this subchapter, the superintendent of the
4 nonresident district shall notify the student's parent or guardian and the
5 resident district in writing as to whether the student's application has been
6 accepted or rejected.

7 (2) If ~~the~~ an application is rejected, the superintendent of the
8 nonresident district shall state in the notification letter the reason for
9 rejection.

10 (3) If ~~the~~ an application is accepted, the superintendent of the
11 nonresident district shall state in the notification letter a reasonable
12 deadline by which the student shall enroll in the nonresident district and
13 after which the acceptance notification is null.

14 ~~(4) The July 1 deadline under subdivision (e)(1) of this section~~
15 ~~does not apply in the case of an application received from a student who has~~
16 ~~a parent or guardian who is an active-duty member of the military and who has~~
17 ~~been transferred to and resides on a military base.~~

18
19 SECTION 5. Arkansas Code Title 6, Chapter 18, Subchapter 19, is
20 amended to add an additional section to read as follows:

21 6-18-1909. Public school choice for dependent of uniformed service
22 member and uniformed service veteran.

23 (a) A child shall be eligible for enrollment in the public school
24 district of his or her choice if he or she is a dependent of a:

25 (1) Uniformed service member in full-time active-duty status;

26 (2) Surviving spouse of a uniformed service member;

27 (3) Reserve component uniformed service member during the period
28 six (6) months before until six (6) months after a Title 10, Title 32, or
29 state active duty mobilization and service; or

30 (4) Uniformed service veteran who is returning to civilian
31 status at the conclusion of the uniformed service veteran's active duty
32 status.

33 (b) If a student eligible under subsection (a) of this section seeks
34 to attend a school in a nonresident district, the student's parent, legal
35 guardian, or person standing in loco parentis to the student shall submit an
36 application approved by the Division of Elementary and Secondary Education by

1 regular mail, electronic mail, or in person to the student's nonresident
 2 district and resident district, which includes:

3 (1) A copy of the identification card of the student's parent,
 4 legal guardian, or person standing in loco parentis that qualifies the
 5 student under this section; and

6 (2) A copy of the official orders, assignment notification, or
 7 notice of mobilization of the student's parent, legal guardian, or person
 8 standing in loco parentis.

9 (c) An application deadline required under this subchapter shall not
 10 apply to a school transfer under this section.

11 (d) A student eligible for a school transfer under this section shall
 12 be permitted only one (1) school transfer per academic year under this
 13 section.

14 (e) The parent, legal guardian, or person standing in loco parentis to
 15 a student eligible for a school transfer under this section shall be
 16 responsible for the transportation of his or her child to and from a
 17 nonresident district.

18
 19 SECTION 6. Arkansas Code § 6-18-2506(a)(3)(A)(i)(e), as amended by
 20 Acts 2023, No. 237, and concerning a student's initial eligibility to
 21 participate in the Arkansas Children's Educational Freedom Account Program,
 22 is amended to read as follows:

23 (e) A child of active-duty ~~military~~ uniformed
 24 service personnel, as identified under Title 10 ~~or~~, Title 32, Title 33, or
 25 Title 42 of the United States Code;

26
 27 SECTION 7. Arkansas Code § 6-18-2506(a)(3)(B)(i)(c)(2), as amended by
 28 Acts 2023, No. 237, and concerning a student's eligibility for the 2024-2025
 29 school year to participate in the Arkansas Children's Educational Freedom
 30 Account Program based on the status of his or her parent, legal guardian, or
 31 person standing in loco parentis to the student, is amended to read as
 32 follows:

33 (2) In the ~~military reserves~~ uniformed
 34 service reserve components;

35 **APPROVED: 4/11/23**

1 State of Arkansas As Engrossed: S3/29/23 S3/30/23 S3/30/23
2 94th General Assembly **A Bill**
3 Regular Session, 2023

SENATE BILL 400

4
5 By: Senators A. Clark, L. Chesterfield, Dees, J. English, Flippo, B. Johnson, G. Leding, M. McKee,
6 Stone, C. Tucker, D. Wallace

7
8 **For An Act To Be Entitled**

9 AN ACT TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2015;
10 TO AMEND THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL
11 CHOICE ACT; TO ENSURE A STUDENT WHO TRANSFERS TO A
12 NONRESIDENT DISTRICT IS AFFORDED CERTAIN
13 OPPORTUNITIES AND RIGHTS; AND FOR OTHER PURPOSES.

14
15
16 **Subtitle**

17 TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF
18 2015; AND TO AMEND THE ARKANSAS
19 OPPORTUNITY PUBLIC SCHOOL CHOICE ACT.

20
21
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23
24 SECTION 1. Arkansas Code § 6-18-227, concerning the Arkansas
25 Opportunity Public School Choice Act, is amended to add an additional
26 subsection to read as follows:

27 (m)(1) A student who transfers to another public school or a
28 nonresident school district under this subchapter shall not be:

29 (A) Denied participation in an extracurricular activity at
30 the public school or nonresident school district to which he or she transfers
31 based exclusively on his or her decision to transfer to the public school or
32 nonresident school district; or

33 (B) Disciplined in any manner based exclusively on the
34 exercise of his or her right to transfer to another public school or a
35 nonresident district under this subchapter.

36 (2)(A) However, a student who transfers to another public school



1 or a nonresident school district under this section shall complete a Changing
2 Schools/Athletic Participation form as defined by the Arkansas Activities
3 Association.

4 (B) A Changing Schools/Athletic Participation form shall
5 be completed and filed with the:

6 (i) Public school or nonresident school district to
7 which the student transfers under this section; and

8 (ii) Arkansas Activities Association.

9 (C)(i) Before a student is eligible to participate in an
10 extracurricular activity at the public school or nonresident school district
11 to which he or she transfers, the Changing Schools/Athletic Participation
12 form submitted by the student as required under subdivision (m)(2)(B) of this
13 section shall be signed by the:

14 (a) Superintendent of the student's resident
15 school district;

16 (b) Superintendent of the nonresident school
17 district to which the student transfers; and

18 (c) Parent, legal guardian, or person standing
19 in loco parentis to the student.

20 (ii) The superintendent of a student's resident
21 school district and the superintendent of the nonresident school district to
22 which a student transfers shall sign the Changing Schools/Athletic
23 Participation form unless there is demonstrable evidence:

24 (a) Of recruiting by the receiving school
25 district personnel; or

26 (b) The student is transferring to the public
27 school or nonresident school district solely for athletic purposes.

28 (D) A Changing Schools/Athletic Participation form shall
29 be used only for eligibility determination of a student who transfers to
30 another public school or nonresident school district under this section and
31 is enrolled in the receiving school district by July 1 before the student
32 enters grades seven through twelve (7-12).

33 (E)(i) Public school district personnel and registered
34 volunteers, as defined by the Arkansas Registered Volunteers Program Act, §
35 6-22-101 et seq., shall not recruit students to the public school at which
36 they are employed or volunteer for athletic purposes.

1 (ii) As used in this section, "recruiting" means the
2 use of undue influence or special inducement by an individual who is
3 connected directly or indirectly with a school that is a member of the
4 Arkansas Activities Association in an attempt to encourage, induce, pressure,
5 urge, or entice a prospective student of any age to transfer to the school or
6 retain a student at the school for the purpose of participating in
7 extracurricular activities.

8 (3) As used in subdivision (m)(1) of this
9 section, "extracurricular activity" means an interschool activity not
10 included in a regular curriculum, including without limitation sports and
11 special interest clubs or groups.

12
13 SECTION 2. Arkansas Code § 6-18-1904, concerning general provisions
14 for student transfers under the Public School Choice Act of 2015, is amended
15 to add an additional subsection to read as follows:

16 (f)(1) A student who transfers to another public school or a
17 nonresident district under this subchapter shall not be:

18 (A) Denied participation in an extracurricular activity at
19 the public school or nonresident district to which he or she transfers based
20 exclusively on his or her decision to transfer to the public school or
21 nonresident district; or

22 (B) Disciplined in any manner based exclusively on the
23 exercise of his or her right to transfer to another public school or a
24 nonresident district under this subchapter.

25 (2)(A) However, a student who transfers to another public school
26 or a nonresident school district under this subchapter shall complete a
27 Changing Schools/Athletic Participation form as defined by the Arkansas
28 Activities Association.

29 (B) A Changing Schools/Athletic Participation form shall
30 be completed and filed with the:

31 (i) Public school or nonresident school district to
32 which the student transfers under this section; and

33 (ii) Arkansas Activities Association.

34 (C)(i) Before a student is eligible to participate in an
35 extracurricular activity at the public school or nonresident school district
36 to which he or she transfers, the Changing Schools/Athletic Participation

1 form submitted by the student as required under subdivision (f)(2)(B) of this
2 section shall be signed by the:

3 (a) Superintendent of the student's resident
4 school district;

5 (b) Superintendent of the nonresident school
6 district to which the student transfers; and

7 (c) Parent, legal guardian, or person standing
8 in loco parentis to the student.

9 (ii) The superintendent of a student's resident
10 school district and the superintendent of the nonresident school district to
11 which a student transfers shall sign the Changing Schools/Athletic
12 Participation form unless there is demonstrable evidence:

13 (a) Of recruiting by the receiving school
14 district personnel; or

15 (b) The student is transferring to the public
16 school or nonresident school district solely for athletic purposes.

17 (D) A Changing Schools/Athletic Participation form shall
18 be used only for eligibility determination of a student who transfers to
19 another public school or nonresident school district under this subchapter
20 and is enrolled in the receiving school district by July 1 before the student
21 enters grades seven through twelve (7-12).

22 (E)(i) Public school district personnel and registered
23 volunteers, as defined by the Arkansas Registered Volunteers Program Act, §
24 6-22-101 et seq., shall not recruit students to the public school at which
25 they are employed or volunteer for athletic purposes.

26 (ii) As used in this section, "recruiting" means the
27 use of undue influence or special inducement by an individual who is
28 connected directly or indirectly with a school that is a member of the
29 Arkansas Activities Association in an attempt to encourage, induce, pressure,
30 urge, or entice a prospective student of any age to transfer to the school or
31 retain a student at the school for the purpose of participating in
32 extracurricular activities.

33 (3) As used in subdivision (f)(1) of this
34 section, "extracurricular activity" means an interschool activity not
35 included in a regular curriculum, including without limitation sports and
36 special interest clubs or groups.

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/s/A. Clark

APPROVED: 4/12/23

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 570

5 By: Senator J. English
6 By: Representative Cozart
7

For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE
10 CONCERNING THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL
11 CHOICE ACT; TO AMEND PROVISIONS OF THE ARKANSAS CODE
12 CONCERNING THE PUBLIC SCHOOL CHOICE ACT OF 2015; AND
13 FOR OTHER PURPOSES.
14

Subtitle

15
16
17 TO AMEND PROVISIONS OF THE ARKANSAS CODE
18 CONCERNING THE ARKANSAS OPPORTUNITY
19 PUBLIC SCHOOL CHOICE ACT AND THE PUBLIC
20 SCHOOL CHOICE ACT OF 2015.
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22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 6-18-227(a)(2)(B)(iii), concerning the
26 Arkansas Opportunity Public School Choice Act, is amended to read as follows:

27 (iii) Further finds that a student should not be
28 compelled against the wishes of the parent, guardian, or the student, if the
29 student is ~~over~~ eighteen (18) years of age or older, to remain in a public
30 school district classified by the State Board of Education as a school
31 district in need of Level 5 – Intensive support under § 6-15-2913 or §6-15-
32 2915 or a public school that has a rating of “F” under §§ 6-15-2105 and 6-15-
33 2106 and state board rules; and
34

35 SECTION 2. Arkansas Code § 6-18-227(b)(1), concerning the Arkansas
36 Opportunity Public School Choice Act, is amended to read as follows:



1 (b)(1) Upon the request of a parent, guardian, or student, if the
2 student is ~~over~~ eighteen (18) years of age or older, a student may transfer
3 from his or her resident district or public school to another school district
4 or public school under this section if, at the time of the request under this
5 subdivision (b)(1):

6 (A) Either:

7 (i) The resident public school district has been
8 classified by the state board as a public school district in need of Level 5
9 – Intensive support under § 6-15-2913 or §6-15-2915; or

10 (ii) The resident public school has a rating of “F”
11 under §§ 6-15-2105 and 6-15-2106 and state board rules, as allowed in
12 subdivision (b)(3)(B)(i)(b) of this section; and

13 (B)~~(i)~~ Except as provided in ~~subdivision (b)(1)(B)(ii)~~
14 subsection (m) of this section, the parent, guardian, or student, if the
15 student is ~~over~~ eighteen (18) years of age or older, has notified both the
16 ~~sending resident~~ and ~~receiving nonresident~~ school districts of the request
17 for a transfer no earlier than January 1 and no later than May 1 of the
18 school year before the school year in which the student intends to transfer.

19 ~~(ii)(a) If a student has a parent or guardian~~
20 ~~who is an active-duty member of the military and who has been transferred to~~
21 ~~and resides on a military base, then the student’s parent or guardian may~~
22 ~~submit a request for transfer under this section at any time during the~~
23 ~~calendar year.~~

24 ~~(b) An application for transfer under~~
25 ~~subdivision (b)(1)(B)(ii)(a) of this section shall:~~

26 ~~(1) Be filed with the nonresident school~~
27 ~~district within fifteen (15) days of the parent’s or guardian’s arrival on~~
28 ~~the military base;~~

29 ~~(2) Include the parent’s or guardian’s~~
30 ~~military transfer orders; and~~

31 ~~(3) Include the parent’s or guardian’s~~
32 ~~proof of residency on the military base.~~

33
34 SECTION 3. Arkansas Code § 6-18-227(b)(2)(A), concerning the Arkansas
35 Opportunity Public School Choice Act, is amended to read as follows:

36 (2)(A)(i) For the purposes of continuity of educational choice,

1 a transfer under this section shall operate as an irrevocable election for
2 each subsequent entire school year and shall remain in force until the
3 student completes high school or the parent, guardian, or student, if the
4 student is ~~over~~ eighteen (18) years of age or older, timely makes application
5 under a provision of law governing attendance in or transfer to another
6 public school or school district other than the student’s assigned school or
7 resident district.

8 (ii)(a) Except as provided in ~~subdivision~~
9 ~~(b)(2)(A)(ii)(b)~~ subsection (m) of this section, a transfer under this
10 section is effective at the beginning of the next academic year.

11 (b) A transfer of a student eligible under
12 subsection (m) of this section ~~for a student who has a parent or guardian who~~
13 ~~is an active-duty member of the military and who resides on a military base~~
14 is effective immediately upon the nonresident district’s written notification
15 of an acceptance approval of the accepting school board at its next meeting.
16

17 SECTION 4. Arkansas Code § 6-18-227(b)(3)(A), concerning the Arkansas
18 Opportunity Public School Choice Act, is amended to read as follows:

19 (3)(A) For each student enrolled in or assigned to a public
20 school district that is classified by the state board as a public school
21 district in need of Level 5 – Intensive support under § 6-15-2913 or § 6-15-
22 2915 or a public school that has a rating of “F” under §§ 6-15-2105 and 6-15-
23 2106 and state board rules, a school district shall:

24 (i) Timely notify the parent, guardian, or student,
25 if the student is ~~over~~ eighteen (18) years of age or older, as soon as
26 practicable after the designation is made, of all options available under
27 this section; and

28 (ii)(a) Offer the parent, guardian, or
29 student, if the student is ~~over~~ eighteen (18) years of age or older, an
30 opportunity to submit an application no earlier than January 1 and no later
31 than May 1 to enroll the student in the upcoming school year in any public
32 school district that is not classified by the state board as a public school
33 district in need of Level 5 – Intensive support under §§ 6-15-2913 and 6-15-
34 2915 or a public school within the resident district that does not have a
35 rating of “F” under §§ 6-15-2105 and 6-15-2106 and state board rules.

36 (b) The opportunity to continue

1 attending the public school or school district that the student transfers to
2 under this section remains in effect until the student graduates from high
3 school.

4
5 SECTION 5. Arkansas Code § 6-18-227(d)(2)(A) and (B), concerning the
6 Arkansas Opportunity Public School Choice Act, is amended to read as follows:

7 (2)(A)(i) A school district shall not deny a student the ability
8 to attend a school in the student’s school district of choice under this
9 section unless there is a lack of capacity at the school in the student’s
10 school district of choice.

11 (ii) A lack of capacity may be claimed by a school
12 district only if:

13 (a) ~~the~~ The school district has reached the
14 maximum student-to-teacher ratio allowed under federal law, state law, the
15 rules for standards of accreditation, state rules, or other applicable
16 federal regulations; and

17 (b) The claim is consistent with state and
18 federal law.

19 (B) ~~The race or ethnicity of a student shall not be used~~
20 ~~to deny a student the ability to attend a school in the student’s school~~
21 ~~district of choice~~ A school district receiving transfers under this section
22 shall not discriminate on the basis of gender, national origin, race,
23 ethnicity, religion, or disability.

24
25 SECTION 6. Arkansas Code § 6-18-227(d)(4), concerning the Arkansas
26 Opportunity Public School Choice Act, is amended to read as follows:

27 (4) An applicant shall not request a hearing before the state
28 board if his or her application for a transfer is rejected due to the
29 application not being timely received by both the resident district and
30 nonresident district.

31 (5) The division shall promulgate rules governing the use of
32 school capacity as a basis for denying admission under this section.

33
34 SECTION 7. Arkansas Code § 6-18-227, concerning the Arkansas
35 Opportunity Public School Choice Act, is amended to add an additional
36 subsection to read as follows:

1 (m)(1) A student shall be eligible for enrollment in the public school
2 district of his or her choice if he or she is a dependent of a:

3 (A) Uniformed service member in full-time active-duty
4 status as defined by Title 10, Title 32, Title 33, or Title 42 of United
5 States Code;

6 (B) Surviving spouse of a uniformed service member;

7 (C) Reserve component uniformed service member during the
8 period six (6) months before until six (6) months after a Title 10, Title 32,
9 Title 42, or state active duty mobilization and service; or

10 (D) Uniformed service veteran who is returning to civilian
11 status at the conclusion of the uniformed service veteran’s active duty
12 status.

13 (2) A student eligible for a school transfer under this
14 subsection shall be permitted only one (1) school transfer per academic year.

15 (3) The parent, legal guardian, or person standing in loco
16 parentis to a student eligible for a school transfer under this subsection
17 shall be responsible for the transportation of his or her child to and from a
18 nonresident district.

19 (4) If a student eligible for transfer under this subsection
20 seeks to attend a public school in a nonresident district, the student’s
21 parent, legal guardian, or person standing in loco parentis to the student,
22 or the student if the student is eighteen (18) years of age or older, shall
23 submit an application approved by the division to the student’s nonresident
24 district and resident district by regular mail, email, or in person, which
25 shall include a copy of the:

26 (A) Identification card of the student’s parent, legal
27 guardian, person standing in loco parentis to the student, or the student if
28 the student if eighteen (18) years of age or older, which qualifies the
29 student under this section; and

30 (B) Official orders, assignment notification, or notice of
31 mobilization of the student’s parent, legal guardian, or person standing in
32 loco parentis to the student.

33 (5) An application deadline required under this section shall
34 not apply to a student eligible for transfer under this subsection.

35
36 SECTION 8. Arkansas Code § 6-18-1903(c), concerning the Public School

1 Choice Act of 2015, is amended to read as follows:

2 (c)(1) ~~This subchapter does not require a school district to add~~
3 ~~teachers, staff, or classrooms or in any way to exceed the requirements and~~
4 ~~standards established by existing law~~ A school district shall not deny a
5 student the ability to attend a school in the student's school district of
6 choice under this section unless there is a lack of capacity at the school in
7 the student's school district of choice.

8 (2) A lack of capacity may be claimed by a school district only
9 if:

10 (A) The school district has reached the maximum student-
11 to-teacher ratio allowed under federal law, state law, the rules for
12 standards for accreditation, state rules, or other applicable federal
13 regulations; and

14 (B) The claim is consistent with state and federal law.

15 (3) A school district receiving transfers under this section
16 shall not discriminate on the basis of gender, national origin, race,
17 ethnicity, religion, or disability.

18
19 SECTION 9. Arkansas Code § 6-18-1905(a), concerning an application for
20 a transfer under the Public School Choice Act of 2015, is amended to read as
21 follows:

22 (a)(1) An application under this section shall be accepted no earlier
23 than January 1 and no later than May 1 each year.

24 (2)(A) Each school district shall have a policy stating the
25 method by which a parent or guardian of a student, or a student who is
26 eighteen (18) years of age or older, may submit a school choice application,
27 including without limitation:

- 28 (i) Regular mail;
- 29 (ii) Email; and
- 30 (iii) Hand delivery.

31 (B) A public school district shall not require ~~a parent or~~
32 ~~guardian of a student to file~~ in-person filing of an application ~~in person.~~

33 (3) If a student seeks to attend a school in a nonresident
34 district, the student's parent or guardian, or a student who is eighteen (18)
35 years of age or older, shall submit an application:

36 (A) To the nonresident district and to the student's

1 resident district;

2 (B)~~(i)~~ On a form approved by the Division of Elementary
3 and Secondary Education-

4 ~~(ii) If a student has a parent or guardian who is an~~
5 ~~active-duty member of the military and who has been transferred to and~~
6 ~~resides on a military base, then the student's parent or guardian shall file~~
7 ~~an application for transfer under this section within fifteen (15) days of~~
8 ~~the parent's or guardian's arrival on the military base, which shall include~~
9 ~~without limitation the parent's or guardian's:~~

10 ~~(a) Military transfer orders; and~~

11 ~~(b) Proof of residency on the military base;~~

12 and

13 (C)~~(i)~~ Postmarked or delivered no later than May 1 of the
14 year in which the student seeks to begin the fall semester at the nonresident
15 district, except as otherwise provided for dependents of uniformed service
16 members and uniformed service veterans under this subchapter.

17 ~~(ii) However, if a student has a parent or guardian~~
18 ~~who is an active-duty member of the military, then the student's application~~
19 ~~for a transfer under this section is not subject to the May 1 deadline under~~
20 ~~subdivision (a)(3)(C)(i) of this section if the student's parent or legal~~
21 ~~guardian:~~

22 ~~(a) Has been transferred to and resides on a~~
23 ~~military base; and~~

24 ~~(b) Provides military transfer orders that~~
25 ~~confirm the date of transfer to the military base.~~

26

27 SECTION 10. Arkansas Code § 6-18-1905, concerning an application for a
28 transfer under the Public School Choice Act of 2015, is amended to add an
29 additional subsection to read as follows:

30 (f)(1) For each application received under this section, the
31 nonresident district shall notify the applicant in writing as to whether the
32 student's application has been accepted or rejected within fifteen (15)
33 calendar days of the nonresident district's receipt of the application.

34 (2) A transfer of the student is effective immediately upon the
35 nonresident district's written notification of an acceptance.

36

APPROVED: 4/12/23