

A.C.A. § 6-18-227

6-18-227. Arkansas Opportunity Public School Choice Act.

(a)

(1) This section may be referred to and cited as the "Arkansas Opportunity Public School Choice Act".

(2)

(A) The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a technical education, or the world of work.

(B) The General Assembly:

(i) Recognizes that the Arkansas Constitution, as interpreted by the Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), makes education a paramount duty of the state;

(ii) Finds that the Arkansas Constitution requires the state to provide an adequate education;

(iii) Further finds that a student should not be compelled against the wishes of the parent, guardian, or the student, if the student is over eighteen (18) years of age, to remain in a public school district classified by the State Board of Education as a school district in need of Level 5 -- intensive support under §§ 6-15-2913 or 6-15-2915 or a public school that has a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules; and

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

(3) The General Assembly further finds that giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools, since teachers, administrators, and school district board members will have added incentives to satisfy the educational needs of the students who reside in the district.

(4) A public school choice program is hereby established to enable a student to transfer, subject to the restrictions in this section, from a:

(A) Public school district that is classified by the state board as a public school district in need of Level 5 -- intensive support under §§ 6-15-2913 or 6-15-2915 to another public school district in the state that is not classified as in need of level 5 -- intensive support under §§ 6-15-2913 or 6-15-2915; or

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

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

(A) Either:

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

(ii) The resident public school has a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules; and

(B)

(i) Except as provided in subdivision (b)(1)(B)(ii) of this section, the parent, guardian, or student, if the student is over eighteen (18) years of age, has notified the Department of Education and both the sending and receiving school districts of the request for a transfer no later than May 1 of the year before the student intends to transfer. **(ii)**

(a) 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 submit a request for transfer under this section at any time during the calendar year.

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

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

(2) Include the parent's or guardian's military transfer orders; and

(3) Include the parent's or guardian's proof of residency on the military base.

(2)(A) (i) For the purposes of continuity of educational choice, a transfer under this section shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or the parent, guardian, or student, if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

(ii)

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

(b) A transfer under this section 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.

(B) Application for the opportunity public school choice option under this section shall:

(i) Be provided by the department; and

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

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

(b) Remains in effect until the student completes high school, except as otherwise provided by law.

(3)(A) 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 under §§ 6-15-2913 or 6-15-2915 or a public school that has a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules, a school district shall:

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

(ii)

(a) Offer the parent, guardian, or student, if the student is over eighteen (18) years of age, an opportunity to submit an application to enroll the student in the upcoming school year in any public school district that is not classified by the state board as a public school district in need of Level 5 -- intensive support under §§ 6-15-2913 and 6-15-2915 or a public school that does not have a rating of "F" under §§ 6-15-2105 or 6-15-2106 and state board rules.

(b) The opportunity to continue attending the public school or school district that the student transfers to under this section remains in effect until the student graduates from high school.

(B)

(i) The parent or guardian of a student enrolled in or assigned to a public school district that is classified by the state board as a public school district in need of Level 5 -- intensive support under §§ 6-15-2913 or 6-15-2915 or a public school that does not have a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules may choose as an alternative to enroll the student in a legally allowable public school district that is not classified as a public school district in need of Level 5 -- intensive support under §§ 6-15-2913 or 6-15-2915 or a public school that does not have a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules and that is nearest to the student's legal residence.

(ii) The school district under subdivision (b)(3)(B)(i) of this section shall accept the student and report the student for purposes of funding under applicable state law.

(C)

(i) Students with disabilities who are eligible to receive services from the school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, and who participate in the public school choice program, remain eligible to receive services from the school district as provided by

federal or state law.

(ii) Any funding for a student under subdivision (b)(3)(C)(i) of this section shall be transferred to the public school or school district to which the student transfers.

(c) (1) (A) The receiving public school or school district under this section may transport students to and from the transferring public school or school district, and the cost of transporting students shall be the responsibility of the transferring public school district except as provided under subdivisions (c)(1)(B) and (c)(2) of this section.

(B) A transferring public school or school district is not required to spend more than four hundred dollars (\$400) per student per school year for transportation required under subdivision (c)(1)(A) of this section.

(2) Upon the transferring public school district's removal from classification as a public school district in need of Level 5 -- intensive support under §§ 6-15-2913 or 6-15-2915 or the transferring public school's receipt of a rating other than "F" under §§ 6-15-2105 and 6-15-2106 and state board rules, the transportation costs shall no longer be the responsibility of the transferring public school or school district, and the student's transportation and the costs of the transportation shall be the responsibility of the parent or guardian or of the receiving public school district if the receiving public school or school district agrees to bear the transportation costs.

(d) (1) (A) A school district board of directors shall offer the opportunity public school choice option to public schools in the school district of the school district board of directors.

(B) The opportunity public school choice option shall be offered in addition to other existing choice programs.

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

(ii) A lack of capacity may be claimed by a school district only if the school district has reached the maximum student-to-teacher ratio allowed under federal law, state law, the rules for standards of accreditation, or other applicable regulations.

(B) The race or ethnicity of a student shall not be used to deny a student the ability to attend a school in the student's school district of choice under this section.

(3) A student or the student's parent or guardian may appeal a school district's decision to deny admission to a school in the student's school district of choice due to lack of capacity to the state board after the student or the student's parent or guardian receives a written notice from the school district of choice that admission has been denied.

(4) The department shall promulgate rules governing the use of school capacity as a basis for denying

admission under this section.

(e)

(1) This section and all student choice options created in this section shall not be subject to any other limitation or restriction provided by law.

(2) If any part of this section conflicts with a federal desegregation court order applicable to a school district, the federal desegregation court order shall govern.

(f)

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

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

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

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

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

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

(3) Each public school district shall report to the department annually the information necessary to complete the report required under subdivision (f)(1) of this section.

(g)

(1) A receiving district shall accept credits toward graduation that were awarded by another district.

(2) The receiving district shall award a diploma to a nonresident student if the student meets the receiving district's graduation requirements.

(h) For purposes of determining a school district's state funding, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.

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

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

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

(ii) Comply fully with the school's code of conduct; and

(B) The parent or guardian of each student participating in the opportunity public school choice option shall comply fully with the receiving public school's parental involvement requirements.

(2) A participant who fails to comply with this section shall forfeit the opportunity public school choice option.

(j)

(1) The maximum opportunity public school choice funds granted for an eligible student shall be calculated based on applicable state law.

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

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

(l) A district under the public school choice program under this section shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program under this section, the application deadline, and the requirements and procedure for nonresident students to participate in the program under this section.

History - Acts 2003 (2nd Ex. Sess.), No. 35, § 7; 2005, No. 2121, § 22; 2011, No. 1124, §§ 1, 2; 2011, No. 1147, § 1; 2013, No. 600, §§ 7-12; 2013, No. 1138, § 45; 2013, No. 1227, § 4; 2013, No. 1429, § 11; 2019, No. 171, §§ 1, 2; 2019, No. 754, § 1.