

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

**Effective: 2019**

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

**CHAPTER 1:**  
**REGULATORY AUTHORITY, PURPOSE, AND DEFINITIONS**

**I-1.00 REGULATORY AUTHORITY AND PURPOSE**

I-1.01 These rules shall be known as the Division of Elementary and Secondary Education Rules Governing Public School Choice.

I-1.02 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by Ark. Code Ann. §§6-1-106, 6-18-227 and 6-18-1901 et seq., as amended by Acts 171 and 754 of 2019.

I-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.

**I-2.00 DEFINITIONS**

As used in these rules:

I-2.01 “Division” means the Division of Elementary and Secondary Education.

I-2.02 “Eligible District” means a public school district that has been classified by the State Board of Education as a district in need of Level 5—intensive support.

I-2.03 “Eligible School” means a public school that has a rating of “F” under Ark. Code Ann. §§6-15-2105 and 6-15-2106.

I-2.04 “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.

I-2.05 “Nonresident District” means:

I-2.05.1 Under the Public School Choice Act of 2015, a school district other than a student’s resident district to which a student transfers or seeks to transfer.

I-2.05.2 Under the Opportunity School Choice Act, a public school district, or open-enrollment public charter school, to which a student transfers or seeks to transfer.

- 1-2.06* “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, a public school within a nonresident district, or an open-enrollment public charter school.
- 1-2.07* “Parent” means a student’s parent, guardian, or other person having custody or care of the student;
- 1-2.08* “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.
- 1-2.09* “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.
- 1-2.10* “Sibling” means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and
- 1-2.11* “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.

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

**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.

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 under federal law, state law, the rules for standards of accreditation, or other applicable regulations;

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 A nonresident district shall:

2-1.05.1 Accept credits toward graduation that were awarded by another district; and

2-1.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

2-1.06 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:

2-1.06.1 Availability of the program;

2-1.06.2 Application deadline;

2-1.06.3 Requirements and procedure for nonresident students to participate in the program; and

2-1.06.4 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.

## **2-3.00 APPLICATION FOR TRANSFER**

2-3.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

2-3.01.1 To the nonresident district with a copy to the student's resident district;

- 2-3.01.2 On the form approved by the Division; and
- 2-3.01.3 Postmarked no later than May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.
- 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:
- 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 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 *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.

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.

## **2-4.00 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 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:

Office of the Commissioner  
ATTN: Arkansas Public School Choice Act  
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 student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 2-3.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the 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 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:

Office of the Commissioner  
ATTN: Arkansas Public School Choice Act Appeals  
Four Capitol Mall  
Little Rock, AR 72201

2-5.01.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent 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 student or student's parent shall state his or her basis for appealing the decision of the nonresident district.

2-5.01.4 The student or student's parent 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:

Office of the Commissioner  
ATTN: Arkansas Public School Choice Act Appeals  
Four Capitol Mall  
Little Rock, AR 72201

2-5.01.6 The Division shall notify the student or student's parent, 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 student or student's parent 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 parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.

## **2-6.00 STATE BOARD HEARING PROCEDURES**

The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 2-5.00 of these rules:

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 shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. If the resident district chooses to participate in the hearing, they shall have like time to present an opening statement after the nonresident district. The Chairperson of the State Board may, for good cause shown and upon request of the party, allow additional time to present their opening statements.

2-6.03 Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. If the resident district chooses to participate

in the hearing, they shall have like time to present their case after the nonresident district. The Chairperson of the State Board may, for good cause shown and upon request of the party, allow additional time to present their cases.

2-6.04 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.

2-6.05 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C). Documents offered by the responding party shall be clearly marked in sequential numbers (1, 2, 3).

2-6.06 The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.

2-6.07 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

2-6.08 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, a student may transfer from his or her resident district or public school to another school district or public school under these rules if, at the time of the request either:

3-1.01.1 The resident public school district is an eligible school district which has been classified by the State Board of Education as a public school district in need of Level 5—intensive support; or

3-1.02.2 The resident public school is an eligible school which has a rating of “F” under Ark. Code Ann. §§6-15-2105 and 6-15-2106.

3-1.02 Except as provided in Chapter 4, Section 4-1.01 of these rules, the parent or guardian, or the student if the student is over eighteen (18) years of age, must notify the Division and both the transferring and receiving school districts of the request to transfer no later than May 1 of the year before the student intends to transfer.

3-1.03 Each school district board of directors shall offer the Opportunity Public School Choice option within the public schools. The Opportunity Public School Choice option shall be offered in addition to other existing choice programs.

3-1.04 The parent or guardian of a student, or the student if the student is over eighteen (18) years of age, enrolled in or assigned to an eligible public school or school district may choose as an alternative to enroll the student in a legally allowable public school or school district that is not classified as a public school district in need of Level 5—intensive support or a public school that does not have a rating of “F” and that is nearest to the student’s legal residence. That school or school district shall accept the student and report the student for purposes of the funding under applicable state law.

3-1.05 Within thirty (30) days from receipt of an application from a student seeking admission under these rules, the superintendent of the nonresident district shall

notify in writing the parent or guardian, or the student if the student is over eighteen (18) years of age, whether the Opportunity Public School Choice application has been accepted or rejected. The notification shall be sent via First-Class Mail to the address on the application.

3-1.05.1 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.

3-1.05.2 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the specific reasons for the rejection.

3-1.05.3 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.

3-1.05.4 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 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.

3-1.05.5 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.

3-1.05.6 Pursuant to Section 3-4.00 of this Chapter, 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 to the State Board of Education after the student or the student's parent or guardian receives written notice from the nonresident district that admission has been denied.

3-1.05.7 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.

3-1.06 For each student enrolled in or assigned to an eligible public school or school district under these rules, a school district shall:

- 3-1.06.1 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 all options available under these rules; and
- 3-1.06.2 Offer the parent or guardian, or the student if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by the State Board of Education as a public school or school district in need of Level 5—intensive support or does not have a rating of “F”.
- 3-1.06.3 The opportunity to continue attending the nonresident public school or district to which the student has transferred shall remain in force until the student graduates from high school.
- 3-1.07 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:
  - 3-1.07.1 The student completes high school; or,
  - 3-1.07.2 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.
- 3-1.08 Except as provided in Chapter 4, Section 4-1.03 of these Rules, a transfer under this Chapter is effective at the beginning of the next academic year.
- 3-1.09 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.
- 3-1.10 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 3-1.10.1 and 3-1.10.2 of these rules.

3-1.10.1 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 3-1.10 of these rules.

3-1.10.2 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.

3-1.11 Unless excused by the school for illness or other good cause:

3-1.11.1 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

3-1.11.2 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.

3-1.11.3 A participant who fails to comply with this section shall forfeit the Opportunity School Choice option.

3-1.12 A receiving district shall accept credits toward graduation that were awarded by another district.

3-1.13 The receiving district shall award a diploma to a student transferred under these rules if the student meets the receiving district's graduation requirements.

3-1.14 A district under the 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.

### **3-2.00 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 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 student or the student's parent or guardian (hereinafter 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:

Office of the Commissioner  
ATTN: Opportunity School Choice Appeal  
Four Capitol Mall  
Little Rock, Arkansas 72201

3-4.02.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, 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:

Office of the Commissioner  
ATTN: Opportunity School Choice Appeal  
Four Capitol Mall  
Little Rock, Arkansas 72201

3-4.03.2 Contemporaneously with the filing of the written response with the Office of the Commissioner, 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

3-4.06.1 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board of Education.

3-4.06.2 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.

3-4.06.3 Each party will be given twenty (20) minutes to present their cases, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

3-4.06.4 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 of Education as a witness during the hearing. The State Board of Education may accept testimony by affidavit, declaration, or deposition.

3-4.06.5 Every witness may be subject to questioning by the State Board of Education.

3-4.06.6 The nonresident district shall have the burden of proof in proving the basis for the denial of the transfer.

3-4.06.7 The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.

3-4.06.8 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 of Education shall provide a written decision to the Division of Elementary and Secondary Education, the appealing party, and the nonresident district within fourteen (14) calendar days of announcing its decision under this section.

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

**CHAPTER 4:**  
**SCHOOL CHOICE FOR MILITARY FAMILIES**

**4-1.0 OPPORTUNITY SCHOOL CHOICE FOR MILITARY FAMILIES**

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 submit a request for an Opportunity School Choice transfer under this Chapter and Chapter 3 of these Rules at any time during the calendar year.

4-1.02 An application for transfer under Opportunity School Choice under this Chapter shall:

4-1.02.1 Be filed with the nonresident school district within fifteen (15) days of the parents or guardians' arrival on the military base;

4-1.02.2 Include the parent's or guardian's military transfer orders; and

4-1.02.3 Include the parent's or guardian's proof of residency on the military base.

4-1.03 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.

**4-2.00 PUBLIC SCHOOL CHOICE FOR MILITARY FAMILIES**

4-2.01 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 Public School Choice transfer under this Chapter and Chapter 2 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:

4-2.01.1 Military transfer orders; and

4-2.01.2 Proof of residency on the military base.

4-2.02 A military family's application for a transfer under the Public School Choice Act of 2015 is not subject to the May 1 deadline under Chapter 2, Section 2-3.01.3 of these Rules if the student's parent or legal guardian:

4-2.02.1 Has been transferred to and resides on a military base; and

4-2.02.2 Provides military transfer orders that confirm the date of transfer to the military base.

4-2.03 The July 1 deadline under Chapter 2, Section 2-3.04 of these Rules does not apply in the case of an application received from a student who 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.

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ARKANSAS DEPARTMENT OF EDUCATION  
RULES GOVERNING THE ARKANSAS OPPORTUNITY  
PUBLIC SCHOOL CHOICE ACT  
September 2013

005.19

**1.00 — PURPOSE**

- 1.01 — These rules shall be known as the Arkansas Department of Education Rules Governing the Arkansas Opportunity Public School Choice Act.
- 1.02 — The purpose of these rules is to set forth the process and procedures necessary to administer the Arkansas Opportunity Public School Choice Act as amended.

**2.00 — AUTHORITY**

- 2.01 — The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by Ark. Code Ann. §§ 6-11-105, 6-18-227, 6-15-430, 25-15-201 et seq., and Acts 600, 1227 and 1429 of 2013.

**3.00 — DEFINITIONS**

As used in these rules:

- 3.01 — “Department” means the Arkansas Department of Education.
- 3.02 — “Nonresident or receiving district” means the public school district, or open-enrollment public charter school, to which a student transfers or seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.
- 3.03 — “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, a public school within a nonresident district, or an open-enrollment public charter school.
- 3.04 — “Resident or transferring district” means the public school district in which the student resides and from which the student seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.
- 3.05 — “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.
- 3.06 — “Public school or school district in academic distress” means a public school or school district that has been classified by the State Board of Education as a public school or school district in academic distress.

**4.00 — GENERAL REQUIREMENTS**

~~4.01 — Upon the request of a parent or guardian, or the student if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school under these rules if:~~

~~4.01.1 — The resident public school or school district has been classified by the State Board of Education as a public school or school district in academic distress; and~~

~~4.01.2 — The parent or guardian, or the student if the student is over eighteen (18) years of age, has notified the Department of Education and both the transferring and receiving school districts of the request to transfer no later than July 30 of the first year in which the student intends to transfer.~~

~~4.02 — Each school district board of directors shall offer the Opportunity Public School Choice option within the public schools. The Opportunity Public School Choice option shall be offered in addition to other existing choice programs.~~

~~4.03 — The parent or guardian of a student, or the student if the student is over eighteen (18) years of age, enrolled in or assigned to a public school or school district that has been classified by the State Board of Education as a public school or school district in academic distress may choose as an alternative to enroll the student in a legally allowable public school or school district that is not classified as a public school or school district in academic distress and that is nearest to the student's legal residence. That school or school district shall accept the student and report the student for purposes of the funding under applicable state law.~~

~~4.04 — Within thirty (30) days from receipt of an application from a student seeking admission under these rules, the superintendent of the nonresident district shall notify in writing the parent or guardian, or the student if the student is over eighteen (18) years of age, whether the Opportunity Public School Choice application has been accepted or rejected. The notification shall be sent via First-Class Mail to the address on the application.~~

~~4.04.1 — 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.~~

~~4.04.2 — If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the specific reasons for the rejection.~~

~~4.04.3 — 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.~~

~~4.04.4 — 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 for standards of~~



~~accreditation, or other applicable 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.~~

~~4.04.5 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.~~

~~4.04.6 Pursuant to Section 7.00 of these rules, 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 to the State Board of Education after the student or the student's parent or guardian receives written notice from the nonresident district that admission has been denied.~~

~~4.04.7 If any provision of these rules conflicts with the provisions of a federal desegregation court order applicable to a school district, the provisions of the federal desegregation order shall govern.~~

~~4.05 For each student enrolled in or assigned to a public school or school district that has been classified by the State Board of Education as a public school or school district in academic distress, a school district shall:~~

~~4.05.1 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 all options available under these rules; and~~

~~4.05.2 Offer the parent or guardian, or the student if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by the State Board of Education as a public school or school district in academic distress.~~

~~4.05.3 The opportunity to continue attending the public school or school district that is not classified as a public school or school district in academic distress shall remain in force until the student graduates from high school.~~

~~4.06 For the purposes of continuity of educational choice, a transfer under these rules shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until:~~

~~4.06.1 The student completes high school; or,~~

~~4.06.2 The parent or guardian, or the student if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.~~

- ~~4.07—A transfer under these rules is effective at the beginning of the next academic year.~~
- ~~4.08—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.~~
- ~~4.09—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 4.09.1 and 4.09.2 of these rules.~~
- ~~4.09.1—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 4.09 of these rules.~~
- ~~4.09.2—Upon the transferring public school or school district's removal from classification as a public school or school district in academic distress, 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 or school district if the receiving public school or school district agrees to bear the transportation costs.~~
- ~~4.10—Unless excused by the school for illness or other good cause:~~
- ~~4.10.1—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~~
- ~~4.10.2—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.~~
- ~~4.11—The parent or guardian shall ensure that the student participating in the opportunity public school choice option takes all statewide assessments, including, but not limited to, benchmark exams, required pursuant to Ark. Code Ann. § 6-15-433.~~
- ~~4.12—A student failing to comply with the requirements of these rules shall forfeit the Opportunity Public School Choice option.~~
- ~~4.13—A receiving district shall accept credits toward graduation that were awarded by another district.~~

~~4.14 The receiving district shall award a diploma to a student transferred under these rules if the student meets the receiving district's graduation requirements.~~

~~4.15 A district under this 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.~~

## **~~5.00 REPORTING REQUIREMENTS~~**

~~5.01 The Department of Education shall develop an annual report on the status of school choice and deliver the report to the State Board of Education, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.~~

~~5.02 Each school district board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to these rules. The school district board of directors shall report this data through its cycle reports as prescribed by the Commissioner of Education.~~

~~5.03 All school districts shall report to the Department of Education on an annual basis the race and gender of each student identified in Section 5.02 above, and other pertinent information needed to properly monitor compliance with the provisions of these rules. The reports may be on forms prescribed by the Department of Education, or the data may be submitted electronically by the district using a format authorized by the Department of Education. The school districts shall report this data through its cycle reports as prescribed by the Commissioner of Education.~~

~~5.03.1 The Department of Education may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the Department of Education so long as thirty (30) calendar days are given between the request for the information and the published deadline.~~

~~5.03.2 A copy of the report shall be provided to the Joint Interim Committee on Education.~~

~~5.04 The receiving school district shall report all students who transfer from another public school under this program. The students attending public schools pursuant to the Opportunity Public School Choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.~~

**6.00 — FUNDING CONSIDERATIONS**

- ~~6.01 — 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.~~
- ~~6.02 — The maximum Opportunity Public School Choice funds granted for an eligible student shall be calculated based on applicable state law.~~
- ~~6.03 — The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.~~

**7.00 — APPEAL PROCEDURES**

- ~~7.01 — 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.~~
- ~~7.02 — The student or the student's parent or guardian (hereinafter 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 4.04 of these rules.~~

~~\_\_\_\_\_ 7.02.1 The written appeal should be sent to:~~

~~\_\_\_\_\_ Office of the Commissioner  
 \_\_\_\_\_ ATTN: Opportunity School Choice Appeal  
 \_\_\_\_\_ Four Capitol Mall  
 \_\_\_\_\_ Little Rock, Arkansas 72201~~

- ~~7.02.2 Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the appealing party must also mail a copy of the written appeal to the superintendent of the nonresident school district.~~
- ~~7.02.3 In its written appeal, the appealing party shall state his or her basis for appealing the decision of the nonresident district.~~
- ~~7.02.4 The appealing party must submit, along with its written appeal, a copy of the rejection letter from the nonresident district.~~
- ~~7.02.5 Any request for a hearing before the State Board of Education must be made in the written appeal.~~
- ~~7.03 — 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.

7.03.1 Any response from the nonresident district should be sent to:

\_\_\_\_\_  
 \_\_\_\_\_ Office of the Commissioner  
 \_\_\_\_\_ ATTN: Opportunity School Choice Appeal  
 \_\_\_\_\_ Four Capitol Mall  
 \_\_\_\_\_ Little Rock, Arkansas 72201

7.03.2 Contemporaneously with the filing of the written response with the Office of the Commissioner, the nonresident district must also mail a copy of the written response to the appealing party.

7.03.3 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.

7.04 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.

7.05 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.

#### \_\_\_\_\_ 7.06 State Board of Education Hearing Procedures

7.06.1 A staff member of the Department of Education shall introduce the agenda item.

7.06.2 All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board of Education.

7.06.3 Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.

7.06.4 Each party will be given twenty (20) minutes to present their cases, beginning with the nonresident district. The Chairperson of the State Board of Education may, for good cause shown and upon request of either party, allow either party additional time to present their cases.

7.06.5 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 of Education as a witness during the hearing. The

~~State Board of Education may accept testimony by affidavit, declaration, or deposition.~~

~~7.06.6 Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.~~

~~7.06.7 For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, numeric order (1, 2, 3).~~

~~7.06.8 For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A, B, C).~~

~~7.06.9 The nonresident district shall have the burden of proof in proving the basis for the denial of the transfer.~~

~~7.06.10 The State Board of Education may sustain the rejection of the \_\_\_\_\_ nonresident district or grant the appeal.~~

~~7.06.11 The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board of Education shall provide a written decision to the Department of Education, the appealing party, and the nonresident district within fourteen (14) calendar days of announcing its decision under this section.~~

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BUREAU OF LEGISLATIVE RESEARCH      ~~ARKANSAS DEPARTMENT OF EDUCATION RULES GOVERNING  
THE PUBLIC SCHOOL CHOICE ACT OF 2015~~  
Effective November 1, 2018

~~1.00 — PURPOSE~~

- ~~1.01 — These rules shall be known as the Arkansas Department of Education Rules Governing the Public School Choice Act of 2015.~~
- ~~1.02 — The purpose of these rules is to set forth the process and procedures necessary to administer the Public School Choice Act of 2015.~~

~~2.00 — AUTHORITY~~

- ~~2.01 — The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by Ark. Code Ann. § 6-18-1901 et seq., as amended by Act 1066 of 2017 and Act 9 of 2018, and Ark. Code Ann. §§ 6-1-106, 6-11-105 and 25-15-201 et seq.~~

~~3.00 — DEFINITIONS~~

~~— As used in these rules:~~

- ~~3.01 — “Nonresident District” means a school district other than a student’s resident district;~~
- ~~3.02 — “Parent” means a student’s parent, guardian, or other person having custody or care of the student;~~
- ~~3.03 — “Resident district” means the school district in which the student resides as determined under Ark. Code Ann. § 6-18-202;~~
- ~~3.04 — “Sibling” means each of two (2) or more children having a parent in common by blood, adoption, marriage, or foster care; and~~
- ~~3.05 — “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 under Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.~~

~~4.00 — ESTABLISHMENT OF PUBLIC SCHOOL CHOICE PROGRAM~~

- ~~4.01 — 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 7.00 of these rules.~~

- ~~4.02 Each school district shall participate in a public school choice program consistent with Arkansas Code, Title 6, Chapter 18, Subchapter 19 and these rules.~~
- ~~4.03 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.~~
- ~~4.04 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:~~
- ~~4.04.1 May include without limitation the capacity of a program, class, grade level, or school building;~~
- ~~4.04.2 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 under federal law, state law, the rules for standards of accreditation, or other applicable regulations;~~
- ~~4.04.3 Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:~~
- ~~4.04.3.1 Resides in the same household; and~~
- ~~4.04.3.2 Is already enrolled in the nonresident district by choice.~~
- ~~4.04.4 Shall not include an applicant's:~~
- ~~4.04.4.1 Academic achievement;~~
- ~~4.04.4.2 Athletic or other extracurricular ability;~~
- ~~4.04.4.3 English proficiency level; or~~
- ~~4.04.4.4 Previous disciplinary proceedings, except that an expulsion from another district may be included under Ark. Code Ann. § 6-18-510.~~
- ~~4.04.5 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.~~
- ~~4.05 A nonresident district shall:~~
- ~~4.05.1 Accept credits toward graduation that were awarded by another district; and~~



~~4.05.2 Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.~~

~~4.06 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:~~

~~————— 4.06.1 Availability of the program;~~

~~————— 4.06.2 Application deadline; and~~

~~4.06.3 Requirements and procedure for nonresident students to participate in the program.~~

## **~~5.00 GENERAL PROVISIONS~~**

~~5.01 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.~~

~~————— 5.02 A student may accept only one (1) school choice transfer per school year.~~

~~5.02.1 A student who accepts a public school choice transfer may return to his or her resident district during the school year.~~

~~5.02.2 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.~~

~~5.03 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.~~

~~5.03.1 A present or future sibling of a student who continues enrollment in the nonresident district under Section 5.03 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.~~

~~5.03.2 A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under~~

~~Section 5.03 of these rules may complete all remaining years at the nonresident district.~~

~~5.04 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.~~

~~5.04.1 The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.~~

~~5.05 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.~~

## **~~6.00 APPLICATION FOR TRANSFER~~**

~~6.01 If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:~~

~~6.01.1 To the nonresident district which shall notify the resident district of the filing of the application within ten (10) calendar days of receipt of the application;~~

~~6.01.2 On the form that is attached to these rules as Attachment 1; and~~

~~6.01.3 Postmarked no later than May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.~~

~~6.02 A nonresident district that receives an application under Section 6.01 of these rules shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.~~

~~6.03 A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.~~

~~6.04 Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under Ark. Code Ann. § 6-18-1906 and Section 7.00 of these rules applies to the application.~~

~~6.05 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.~~

~~6.05.1 If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for the rejection.~~

~~6.05.2 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.~~

## **7.00 — LIMITATIONS**

~~7.01 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.~~

~~7.01.1 Annually by January 1, a school district that claims a conflict under Section 7.01 of these rules submit proof from a federal court to the Department of Education that the school district has a genuine conflict under an active desegregation order or active court approved desegregation plan that explicitly limits the transfer of students between school districts.~~

~~7.01.2 A school district shall provide the information required under Section 7.01.1 of these rules to:~~

~~—— Office of the Commissioner  
—— ATTN: Arkansas Public School Choice Act  
—— Four Capitol Mall  
—— Little Rock, AR 72201~~

~~7.01.3 Proof submitted under Section 7.01.1 of these rules shall contain the following:~~

~~7.01.3.1 Documentation that the desegregation order or court-approved desegregation plan is still active and enforceable;  
and~~

~~7.01.3.2 Documentation showing the specific language the school district believes limits its participation in the school choice provisions of this subchapter.~~

~~7.01.4 Within thirty (30) calendar days of receipt of proof submitted under Section 7.01.1, the department shall notify the school district whether it is required to participate in the school choice provisions of this subchapter.~~

- ~~7.01.4.1 The department may reject incomplete submissions.~~
- ~~7.01.4.2 If the department does not provide a written exemption to the school district, then the district shall be required to participate in the school choice provisions of this subchapter.~~
- ~~7.01.5 The department shall maintain on its website a list of school districts that are not required to participate in the school choice provisions of this subchapter.~~
- ~~7.01.6 The State Board of Education may review a decision of the department upon written petition of the affected school district and may affirm or reverse the decision of the department.~~
- ~~7.02 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 15 of the immediately preceding school year.~~
  - ~~7.02.1 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 7.02 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.~~
  - ~~7.02.2 A student eligible to transfer to a nonresident district under Ark. Code Ann. §§ 6-15-430(c)(1), 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.~~
  - ~~7.02.3 Annually by December 15, the Department of Education shall report to each school district the net maximum number of school choice transfers for the next school year.~~
  - ~~7.02.4 If a student is unable to transfer due to the limits under Section 7.02 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 7.02 of these rules in the order that the resident district receives notices of applications under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules, as evidenced by a notation made by the district on the applications indicating date and time of receipt.~~

**8.00 — APPEAL AND REPORTING**

~~8.01 — A student whose application for a transfer under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.~~

~~8.01.1 — 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 receives a notice of rejection of the application under Ark. Code Ann. § 6-18-1905 and Section 6.00 of these rules and shall be mailed to:~~

~~—— Office of the Commissioner  
—— ATTN: Arkansas Public School Choice Act Appeals  
—— Four Capitol Mall  
—— Little Rock, AR 72201~~

~~8.01.2 — Contemporaneously with the filing of the written appeal with the Office of the Commissioner, the student or student's parent must also mail a copy of the written appeal to the superintendent of the nonresident school district.~~

~~8.01.3 — In its written appeal, the student or student's parent shall state his or her basis for appealing the decision of the nonresident district.~~

~~8.01.4 — The student or student's parent shall submit, along with its written appeal, a copy of the notice of rejection from the nonresident school district.~~

~~8.01.5 — Upon receipt of the written appeal, the Department of 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:~~

~~Office of the Commissioner  
—— ATTN: Arkansas Public School Choice Act Appeals  
—— Four Capitol Mall  
—— Little Rock, AR 72201~~

~~8.01.6 — The Department of Education shall notify the student or student's parent, the nonresident district, and the resident district of the date, time, and location of the hearing before the State Board of Education.~~

~~8.01.7 As part of the review process, the student or student's parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.~~

~~8.01.8 If the State Board of Education overturns the determination of the nonresident district on appeal, the State Board of Education shall notify the parent, the nonresident district, and the resident district of the basis for the State Board of Education's decision.~~

## **~~9.00 — STATE BOARD HEARING PROCEDURES~~**

~~The following procedures shall apply to hearings conducted by the State Board of Education pursuant to Ark. Code Ann. § 6-18-1907 and Section 8.00 of these rules:~~

~~9.01 — A staff member of the Arkansas Department of Education shall introduce the agenda item.~~

~~9.02 — All persons wishing to testify before the State Board of Education shall first be placed under oath by the Chairperson of the State Board.~~

~~9.03 — Each party shall have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the nonresident school district. If the resident district chooses to participate in the hearing, they shall have like time to present an opening statement after the nonresident district. The Chairperson of the State Board may, for good cause shown and upon request of the party, allow additional time to present their opening statements.~~

~~9.04 — Each party shall be given twenty (20) minutes to present their cases, beginning with the nonresident school district. If the resident district chooses to participate in the hearing, they shall have like time to present their case after the nonresident district. The Chairperson of the State Board may, for good cause shown and upon request of the party, allow additional time to present their cases.~~

~~9.05 — 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.~~

~~9.06 — Every witness may be subject to direct examination, cross examination and questioning by the State Board of Education.~~

~~9.07 — For the purposes of the record, documents offered during the hearing by the nonresident district shall be clearly marked in sequential, alphanumeric order (N1, N2, N3).~~

- ~~9.08—For the purposes of the record, any documents offered during the hearing by the resident district shall be clearly marked in sequential, alphanumeric order (R1, R2, R3).~~
- ~~9.09—For the purposes of the record, documents offered during the hearing by the appealing party shall be clearly marked in sequential, alphabetic letters (A,B,C).~~
- ~~9.10—The nonresident school district shall have the burden of proof in proving the basis for denial of the transfer.~~
- ~~9.11—The State Board of Education may sustain the rejection of the nonresident district or grant the appeal.~~
- ~~9.12—The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board shall provide a written decision to the Department of Education, the appealing party, the nonresident district and the resident district within fourteen (14) days of announcing its decision under this section.~~

## ATTACHMENT 1

***APPLICATION FOR TRANSFER TO A NONRESIDENT DISTRICT  
"ARKANSAS PUBLIC SCHOOL CHOICE ACT OF 2015"  
(Must Be Submitted to Non-Resident Districts)***

**APPLICANT INFORMATION**

Student Name:

Student Date of Birth:

Gender ☐ Male+ ☐ Female

Grade:

Does the applicant require special needs or programs? ☐ Yes ☐ NoIs applicant currently under expulsion? ☐ Yes ☐ No**ETHNIC ORIGIN (CHECK ONE)**

(For data reporting purposes only)

2 or More Races ☐Asian ☐African-American ☐Hispanic ☐Native American/  
Native Alaskan ☐Native Hawaiian/  
Pacific Islander ☐White ☐**RESIDENT SCHOOL DISTRICT OF APPLICANT**

District Name:

County Name:

Address:

Phone:

**NONRESIDENT SCHOOL DISTRICT APPLICANT WISHES TO ATTEND**

District Name:

County Name:

Address:

Phone:

Does the applicant already have a sibling or step sibling in attendance in this district pursuant to the Public School Choice Act of 2013 or the Public School Choice Act of 2015? If so, please list:



<b>PARENT OR GUARDIAN INFORMATION</b>			
Name:		Home Phone:	
Address:		Work Phone:	
Parent/Guardian Signature			Date:
<p>Pursuant to standards adopted by a nonresident school board a nonresident district may reserve the right to accept and reject applicants based on capacity of programs, class, grade level, or school building. Likewise, a nonresident district's standards may provide for the rejection of an applicant based upon the submission of false or misleading information to the above listed request for information when that information directly impacts the legal qualifications of an applicant to transfer pursuant to the School Choice Act. However, a nonresident district's standards shall not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings, except that an expulsion from another district may be included pursuant to Ark. Code Ann. § 6-18-510. Priority will be given to applicants with siblings or step-siblings attending the district. The nonresident district shall accept credits toward graduation that were awarded by another district and award a diploma to a nonresident applicant if the applicant meets the nonresident district's graduation requirements. This application must be filed in the nonresident district or postmarked no later than May 1 of the year in which the applicant would begin the fall semester at the nonresident district. A student whose application for transfer is rejected by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer by filing such a request in writing with the Commissioner of Education no later than ten (10) days after the student or student's parent receives a notice of rejection. (Consult Ark. Code Ann. § 6-18-1907 and the Arkansas Department of Education Rules Governing the Public School Choice Act of 2015 for specific procedures on how to file such an appeal).</p>			
<b>DISTRICT USE ONLY</b>			
Date and Time Received by Resident District:		Date and Time Received by Nonresident District:	
Resident District LEA #:		Nonresident District LEA#:	
Student's State Identification #:			
Application	— Accepted	Rejected	
Reason for Rejection (If Applicable):			
Date Notification Sent to Parent/Guardian of Applicant:			
Date Notification Sent to Resident District:			

State of Arkansas *As Engrossed: H1/29/19 H1/31/19*

92nd General Assembly

Regular Session, 2019

# A Bill

HOUSE BILL 1175

By: Representatives Evans, C. Fite

*By: Senator T. Garner*

## For An Act To Be Entitled

AN ACT CONCERNING PUBLIC SCHOOL CHOICE; TO AMEND THE  
PUBLIC SCHOOL CHOICE ACT OF 2015 AND THE ARKANSAS  
OPPORTUNITY PUBLIC SCHOOL CHOICE ACT OF 2004; TO  
AMEND THE DEADLINE BY WHICH A STUDENT WHO HAS A  
PARENT OR GUARDIAN WHO RESIDES ON A MILITARY BASE MAY  
APPLY FOR A TRANSFER UNDER THE PUBLIC SCHOOL CHOICE  
ACT OF 2015 AND THE ARKANSAS OPPORTUNITY PUBLIC  
SCHOOL CHOICE ACT OF 2004; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE DEADLINE BY WHICH A STUDENT  
WHO HAS A PARENT OR GUARDIAN WHO RESIDES  
ON A MILITARY BASE MAY APPLY FOR A  
TRANSFER UNDER THE PUBLIC SCHOOL CHOICE  
ACT AND THE ARKANSAS OPPORTUNITY PUBLIC  
SCHOOL CHOICE ACT.

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

SECTION 1. Arkansas Code § 6-18-227(b)(1)(B), concerning the time by  
which an individual may apply for a transfer under the Arkansas Opportunity  
Public School Choice Act of 2004, is amended to read as follows:

(B)(i) Except as provided in subdivision (b)(1)(B)(ii) of  
this section. The the parent, guardian, or the student, if the student is  
over eighteen (18) years of age, has notified the Department of Education and  
both the sending and receiving school districts of the request for a transfer



no later than July 30 of the first year in which 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.

SECTION 2. Arkansas Code § 6-18-227(b)(2)(A)(ii), concerning the Arkansas Opportunity Public School Choice Act of 2004, is amended to read as follows:

(ii)(a) 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.

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

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

(1) To the nonresident district, which shall notify the resident district of the filing of the application within ten (10) calendar days of receipt of the application;

1           (2)(A) On a form approved by the Department of Education, ~~and~~.

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

8                           (i) Military transfer orders; and

9                           (ii) Proof of residency on the military base; and

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

12                   (B) However, if a student has a parent or guardian who is  
13 an active-duty member of the military, then the student's application for a  
14 transfer under this section is not subject to the May 1 deadline under  
15 subdivision (a)(3)(A) of this section if the student's parent or legal  
16 guardian:

17                           (i) Has been transferred to and resides on a  
18 military base; and

19                           (ii) Provides military transfer orders that confirm  
20 the date of transfer to the military base.

21  
22           SECTION 4. Arkansas Code § 6-18-1905(e), concerning an application for  
23 a transfer under the Public School Choice Act of 2015, is amended to read as  
24 follows:

25           (e)(1) By Except as provided in subdivision (e)(4) of this section, by  
26 July 1 of the school year in which the student seeks to enroll in a  
27 nonresident district under this subchapter, the superintendent of the  
28 nonresident district shall notify the parent and the resident district in  
29 writing as to whether the student's application has been accepted or  
30 rejected.

31                   (2) If the application is rejected, the superintendent of the  
32 nonresident district shall state in the notification letter the reason for  
33 rejection.

34                   (3) If the application is accepted, the superintendent of the  
35 nonresident district shall state in the notification letter a reasonable  
36 deadline by which the student shall enroll in the nonresident district and

1 after which the acceptance notification is null.

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

6  
7  
8 /s/Evans

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11 **APPROVED: 2/18/19**  
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1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

*As Engrossed: H3/6/19*

## A Bill

HOUSE BILL 1468

5 By: Representative Lowery  
6 By: Senator M. Johnson  
7

### For An Act To Be Entitled

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

### Subtitle

15 TO AMEND PROVISIONS OF THE ARKANSAS CODE  
16 CONCERNING PUBLIC SCHOOL CHOICE.  
17  
18

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

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

22 6-18-227. Arkansas Opportunity Public School Choice Act ~~of 2004~~.

23 (a)(1) This section may be referred to and cited as the "Arkansas  
24 Opportunity Public School Choice Act ~~of 2004~~".

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

29 (B) The General Assembly:

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

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

35 (iii) Further finds that a student should not be  
36 compelled against the wishes of the parent, guardian, or the student, if the



1 student is over eighteen (18) years of age, to remain in a public school or  
2 school district classified by the State Board of Education as a school or  
3 school district in ~~academic distress under § 6-15-428 [repealed]~~ need of  
4 Level 5 – intensive support under §§ 6-15-2913 or 6-15-2915 or a public  
5 school that has a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state  
6 board rules; and

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

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

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

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

27 (B) Public school that has a rating of "F" under §§ 6-15-  
28 2105 and 6-15-2106 and state board rules to a public school that does not  
29 have a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules.

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

35 (A) Either:

36 (i) The resident public school or school district

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

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

6 (B) The parent, guardian, or ~~the~~ student, if the student  
7 is over eighteen (18) years of age, has notified the Department of Education  
8 and both the sending and receiving school districts of the request for a  
9 transfer no later than ~~July 30~~ May 1 of the ~~first~~ year ~~in which~~ before the  
10 student intends to transfer.

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

19 (ii) A transfer under this section is effective at  
20 the beginning of the next academic year.

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

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

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

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

29 (b) Remains in force effect until the student  
30 completes high school, ~~as provided in this subsection~~ except as otherwise  
31 provided by law.

32 (3)(A) For each student enrolled in or assigned to a public  
33 ~~school or~~ school district that ~~has been~~ is classified by the state board as a  
34 public school ~~or school~~ district in ~~academic distress~~ need of Level 5 –  
35 intensive support under §§ 6-15-2913 or 6-15-2915 or a public school that has  
36 a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules, a



1 school district shall:

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

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

14 (b) The opportunity to continue attending the  
15 public school or school district that ~~is not classified as a public school or~~  
16 ~~school district in academic distress shall remain in force~~ the student  
17 transfers to under this section remains in effect until the student graduates  
18 from high school.

19 (B)(i) The parent or guardian of a student enrolled in or  
20 assigned to a public ~~school or~~ school district that ~~has been~~ is classified by  
21 the state board as a public ~~school or~~ school district in ~~academic distress~~  
22 need of Level 5 – intensive support under §§ 6-15-2913 or 6-15-2915 or a  
23 public school that does not have a rating of "F" under §§ 6-15-2105 and 6-15-  
24 2106 and state board rules may choose as an alternative to enroll the student  
25 in a legally allowable public ~~school or~~ school district that is not  
26 classified as a public ~~school or~~ school district in ~~academic distress~~ need of  
27 Level 5 – intensive support under §§ 6-15-2913 or 6-15-2915 or a public  
28 school that does not have a rating of "F" under §§ 6-15-2105 and 6-15-2106  
29 and state board rules and that is nearest to the student's legal residence.

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

33 (C)(i) Students with disabilities who are eligible to  
34 receive services from the school district under federal or state law,  
35 including students receiving additional funding through federal title  
36 programs specific to the Elementary and Secondary Education Act of 1965, Pub.

1 L. No. 89-10, and who participate in the public school choice program, remain  
2 eligible to receive services from the school district as provided by federal  
3 or state law.

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

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

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

16 (2) Upon the transferring public ~~school's~~ or school district's  
17 removal from classification as a public ~~school~~ or school district in ~~academic~~  
18 ~~distress~~ need of Level 5 - intensive support under §§ 6-15-2913 or 6-15-2915  
19 or the transferring public school's receipt of a rating other than "F" under  
20 §§ 6-15-2105 and 6-15-2106 and state board rules, the transportation costs  
21 shall no longer be the responsibility of the transferring public school or  
22 school district, and the student's transportation and the costs of the  
23 transportation shall be the responsibility of the parent or guardian or of  
24 the receiving public ~~school~~ or school district if the receiving public school  
25 or school district agrees to bear the transportation costs.

26 (d)(1)(A) ~~Each~~ A school district board of directors shall offer the  
27 opportunity public school choice option ~~within the~~ to public schools in the  
28 school district of the school district board of directors.

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

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

35 (ii) A lack of capacity may be claimed by a school  
36 district only if the school district has reached the maximum student-to-

1 teacher ratio allowed under federal law, state law, the rules for standards  
2 of accreditation, or other applicable regulations.

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

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

11 (4) The department shall promulgate rules governing the use of  
12 school capacity as a basis for denying admission under this section.

13 (e)(1) ~~The provisions of this~~ This section and all student choice  
14 options created in this section shall ~~comply with § 6-18-206(d) [repealed],~~  
15 ~~(e) [repealed], and (i) [repealed]~~ and shall not be subject to any other  
16 limitation or restriction provided by law.

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

20 (f)(1) ~~The department shall develop an annual report on the status of~~  
21 student participation in public school choice and opportunity school choice  
22 and deliver the report to the state board, the Governor, the House Committee  
23 on Education, the Senate Committee on Education, and the Legislative Council  
24 at least ninety (90) sixty (60) days before the convening of the regular  
25 session of the General Assembly.

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

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

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

30 and

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

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

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

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

3 ~~(g) Each school district board of directors shall annually report the~~  
4 ~~number of students applying for and attending the various types of public~~  
5 ~~schools of choice in the district, including schools such as magnet schools,~~  
6 ~~according to rules adopted by the state board.~~

7 ~~(h)(1)(g)(1)~~ A receiving district shall accept credits toward  
8 graduation that were awarded by another district.

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

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

15 ~~(j)(1) All school districts shall report to the department on an~~  
16 ~~annual basis the race, gender, and other pertinent information needed to~~  
17 ~~properly monitor compliance with the provisions of this section.~~

18 ~~(2) The reports may be on those forms that are prescribed by the~~  
19 ~~department, or the data may be submitted electronically by the district using~~  
20 ~~a format authorized by the department.~~

21 ~~(3) The department may put on probation the superintendent of~~  
22 ~~any school district that fails to file its report each year or fails to file~~  
23 ~~any other information with a published deadline requested from school~~  
24 ~~districts by the department so long as thirty (30) calendar days are given~~  
25 ~~between the request for the information and the published deadline.~~

26 ~~(4) A copy of the report shall be provided to the House~~  
27 ~~Committee on Education and the Senate Committee on Education.~~

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

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

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

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

36 (B) The parent or guardian of each student participating

1 in the opportunity public school choice option shall comply fully with the  
2 receiving public school's parental involvement requirements.

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

5 ~~(1)(1)(j)(1)~~ The maximum opportunity public school choice funds  
6 granted for an eligible student shall be calculated based on applicable state  
7 law.

8 ~~(2)(A) The receiving school district shall report all students~~  
9 ~~who transfer from another public school under the public school choice~~  
10 ~~program.~~

11 ~~(B) The students attending public schools pursuant to the~~  
12 ~~opportunity public school choice option shall be reported separately from~~  
13 ~~those students reported for purposes of compliance with applicable state law.~~

14 ~~(3)(2)~~ The A public school that provides services to students  
15 with disabilities shall receive funding as determined by applicable federal  
16 and state law.

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

20 ~~(n)(1)~~ A district under the public school choice program under this  
21 section shall request public service announcements to be made over the  
22 broadcast media and in the print media at such times and in such a manner as  
23 to inform parents or guardians of students in adjoining districts of the  
24 availability of the program under this section, the application deadline, and  
25 the requirements and procedure for nonresident students to participate in the  
26 program under this section.

27  
28 SECTION 2. Arkansas Code § 6-18-1905(a) and (b), concerning a  
29 student's application for a transfer under the Public School Choice Act of  
30 2015, are amended to read as follows:

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

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

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

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

3 (b) A Both the nonresident district and the resident district that  
4 receives an application under subsection (a) of this section shall, upon  
5 receipt of the application, place a date and time stamp on the application  
6 that reflects the date and time ~~the nonresident~~ each district received the  
7 application.

8  
9 SECTION 3. Arkansas Code § 6-18-1905(d), concerning the acceptance or  
10 rejection of a student's application for transfer under the Public School  
11 Choice Act of 2015, is amended to read as follows:

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

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

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

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

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

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

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

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

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

4           (b)(1)(A) There is established a numerical net maximum limit on school  
5 choice transfers each school year from a school district, less any school  
6 choice transfers into the school district, under this section of not more  
7 than three percent (3%) of the enrollment that exists in the school district  
8 as of October ~~15~~ 1 of the immediately preceding school year.

9  
10                               /s/Lowery

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13                               **APPROVED: 4/5/19**  
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