

Subchapter 19 — Public School Choice Act of 2013

- 6-18-1901. Title — Legislative findings.
- 6-18-1902. Definitions.
- 6-18-1903. Public school choice program established.
- 6-18-1904. General provisions.
- 6-18-1905. Application for a transfer.
- 6-18-1906. Limitations.
- 6-18-1907. Rules — Appeal — Data collection and reporting.
- 6-18-1908. Effective date.

Effective Dates.

Acts 2013, No. 1227, § 7: Apr. 16, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Public School Choice Act of 1989, § 6-18-206, have been found to be unconstitutional by a federal court; that thousands of public school students are currently attending public schools in nonresident school districts under that law; that there is now uncertainty about the viability of those transfers and future transfers; that this act repeals the disputed provisions of that law while preserving the opportunity for public school choice; and that this act is immediately necessary to resolve the uncertainty in the law before the 2013-2014 school year and preserve existing student transfers. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-18-1901. Title — Legislative findings.

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

(b) The General Assembly finds that:

(1) The students in Arkansas’s public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state’s schools because teachers, administrators, and school district board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

History. Acts 2013, No. 1227, § 6.

6-18-1902. Definitions.

As used in this subchapter:

- (1) "Nonresident district" means a school district other than a student's resident district;
- (2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;
- (3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and
- (4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

History. Acts 2013, No. 1227, § 6.

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

- (a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.
- (b) Each school district shall participate in a public school choice program consistent with this subchapter.
- (c) This subchapter does 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.
- (d)(1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.
 - (2) The standards:
 - (A) May include without limitation the capacity of a program, class, grade level, or school building;
 - (B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:
 - (i) Resides in the same household; and
 - (ii) Is already enrolled in the nonresident district by choice; and
 - (C) Shall not include an applicant's:
 - (i) Academic achievement;
 - (ii) Athletic or other extracurricular ability;
 - (iii) English proficiency level; or
 - (iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.
 - (3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.
- (e) A nonresident district shall:
 - (1) Accept credits toward graduation that were awarded by another district; and
 - (2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.
- (f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:
 - (1) Availability of the program;
 - (2) Application deadline; and
 - (3) Requirements and procedure for nonresident students to participate in the program.

History. Acts 2013, No. 1227, § 6.

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b)(1) A student may accept only one (1) school choice transfer per school year.

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

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, 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.

(d)(1) 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) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

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

History. Acts 2013, No. 1227, § 6.

Case Notes

Relationship to Other Law.

Repeal of § 6-18-206 mooted parents' lawsuit, and Public School Choice Act of 2013 afforded parents' children full prospective relief they sought in lawsuit. *Teague v. Cooper*, 720 F.3d 973, 2013 U.S. App. LEXIS 15115 (8th Cir. 2013).

6-18-1905. Application for a transfer.

(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 with a copy to the resident district;

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

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

(b)(1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

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

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

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

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

History. Acts 2013, No. 1227, § 6.

6-18-1906. Limitations.

(a) If the provisions of this subchapter conflict with a provision of an enforceable desegregation court order or a district's court-approved desegregation plan regarding the effects of past racial segregation in student assignment, the provisions of the order or plan shall govern.

(b)(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2)(A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c)(1)(A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

History. Acts 2013, No. 1227, § 6.

Notes to Decisions

Mootness.

Parents' appeal from the district court's denial of their motion for a preliminary injunction to require the school district to rescind its resolution to opt out of the Arkansas Public School Choice Act of 2013 for 2013-2014 school year was moot because by the motion's own terms, the time period in which the requested relief would have been effective had expired, and the mootness exception for claims capable of repetition, yet evading review, was inapplicable. *Stevenson v. Blytheville Sch. Dist. #5*, 762 F.3d 765, 2014 U.S. App. LEXIS 15283 (8th Cir. 2014).

6-18-1907. Rules — Appeal — Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b)(1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2)(A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c)(1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

History. Acts 2013, No. 1227, § 6.

6-18-1908. Effective date.

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

History. Acts 2013, No. 1227, § 6.