

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

A Bill

SENATE BILL 1040

5 By: Senator Bryles
6 By: Representative Mahony
7

For An Act To Be Entitled

8
9
10 AN ACT TO AMEND THE ARKANSAS PUBLIC SCHOOL CHOICE
11 ACT OF 1989; AND FOR OTHER PURPOSES.
12

Subtitle

13
14 AN ACT TO AMEND THE ARKANSAS PUBLIC
15 SCHOOL CHOICE ACT OF 1989.
16
17

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

20 SECTION 1. Arkansas Code § 6-18-206 is amended to read as follows:
21 6-18-206. Public school choice.

22 (a)(1) This section may be referred to and cited as the "Arkansas
23 Public School Choice Act of ~~1989~~ 2005".

24 (2) The General Assembly finds that the students in Arkansas'
25 public schools and their parents will become more informed about and involved
26 in the public educational system if students and their parents or guardians
27 are provided greater freedom to determine the most effective school for
28 meeting their individual educational needs. There is no right school for
29 every student, and permitting students to choose from among different schools
30 with differing assets will increase the likelihood that some marginal
31 students will stay in school and that other, more motivated students will
32 find their full academic potential.

33 (3) The General Assembly further finds that there are compelling
34 educational benefits associated with promoting diversity in Arkansas' public
35 schools, including, but not limited to, racial and ethnic diversity in the
36 student body and ensuring access to educational opportunities. Diversity and



1 access can be promoted by a properly administered public school choice
 2 policy.

3 ~~(3)~~(4) The General Assembly further finds that giving more
 4 options to parents and students with respect to where the students attend
 5 public school will increase the responsiveness and effectiveness of the
 6 state's schools since teachers, administrators, and school board members will
 7 have added incentive to satisfy the educational needs of the students who
 8 reside in the district.

9 ~~(4)~~(5) The General Assembly therefore finds that these related
 10 benefits of enhanced quality, diversity, access, and effectiveness in our
 11 public schools justify permitting a student to apply for admission to a
 12 school in any district beyond the one in which the student resides, provided
 13 that the transfer by this student would not adversely affect the
 14 desegregation of either district is based on legitimate educational
 15 justifications and not based on inappropriate stereotypes.

16 ~~(5)~~(6) A public school choice program is hereby established to
 17 enable any student to attend a school in a district in which the student does
 18 not reside, subject to the restrictions contained in this section.

19 (b)(1)(A) Before a student may attend a school in a nonresident
 20 district, the student's parent or guardian must submit an application on a
 21 form ~~approved~~ developed by the Department of Education to the nonresident
 22 district by submitting the application to the superintendent of the school
 23 district. This application must be postmarked not later than July 1 of the
 24 year in which the student would begin the fall semester at the nonresident
 25 district.

26 (B)(i) Within thirty (30) days of the receipt of an
 27 application from a nonresident student seeking admission under the terms of
 28 this section, the superintendent of the nonresident district shall notify the
 29 parent or guardian and the resident district in writing as to whether the
 30 student's application has been accepted or rejected.

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

34 (iii) If the application is accepted, the
 35 superintendent of the nonresident district shall state in the notification
 36 letter:

1 (a) An absolute deadline for the student to
2 enroll in the district, or the acceptance notification is null; and

3 (b) Any instructions for the renewal
4 procedures established by the district.

5 (2)(A) The school board of directors of every public school
6 district must adopt by resolution ~~specific standards~~ a policy for acceptance
7 and rejection of applications based on standards and procedures established
8 by the Department of Education. Standards may include the capacity of a
9 program, class, grade level, or school building. The standards and
10 procedures shall be designed to ensure that any proposed transfer is based on
11 sound educational justifications that are consistent with the findings under
12 subsection (a) of this section and take into consideration a range of factors
13 in the following areas:

14 (i) The capacity of the nonresident school, grade,
15 or class;

16 (ii) The relative strength of the nonresident
17 school's educational program, including the nature of the program and the
18 relative school improvement status; and

19 (iii) The impact on the educational benefits of
20 diversity and access to opportunity.

21 (B)(i) Nothing in this section shall permit the
22 establishment of unlawful quotas.

23 (ii) Nothing in this section requires a school
24 district to add teachers, staff, or classrooms or in any way to exceed the
25 requirements and standards established by existing law.

26 (iii) Standards shall include a statement that
27 priority will be given to applications from siblings or stepsiblings residing
28 in the same residence or household of students already attending the district
29 by choice.

30 (iv) Standards may not include an applicant's
31 previous academic achievement, athletic or other extracurricular ability,
32 handicapping conditions, English proficiency level, or previous disciplinary
33 proceedings except that an expulsion from another district may be included
34 pursuant to § 6-18-510.

35 (C)(i) In evaluating a request for transfer, the
36 nonresident district shall conduct an individualized review of the applicant

1 to determine whether the request is based on legitimate educational
2 justification under subdivision (b)(2)(A) of this section.

3 (ii) School districts shall grant a transfer request
4 if there is sufficient capacity and the request is justified based on the
5 relative strength of the education program or the impact on diversity and
6 access.

7 (iii) If capacity is not sufficient to honor all
8 transfer requests, school districts shall grant transfers to applicants who
9 demonstrate the greatest educational justification based on the relative
10 strength of the education program and the impact on diversity and access.

11 (D) A resident district that believes that a transfer or
12 group of transfers is not based on legitimate educational justification but
13 on inappropriate stereotypes may deny the transfer or transfers.

14 ~~(B)(i)~~(E)(i) Any student who applies for a transfer under
15 this section and is denied a transfer by the nonresident or resident district
16 may request a hearing before the State Board of Education to reconsider the
17 transfer.

18 (ii) A request for a hearing before the state board
19 shall be in writing and shall be postmarked no later than ten (10) days after
20 notice of rejection of the application under ~~subdivision~~ subdivisions
21 (b)(1)(B) and (C) of this section is received by the student.

22 (3) Each school district shall participate in public school
23 choice consistent with this section.

24 (c) The responsibility for transportation of a student from the
25 student's resident school district to a nonresident school district shall be
26 borne by the student or the student's parents. The nonresident school
27 district may enter into a written agreement with the student, the student's
28 parents, or the resident school district to provide transportation to or from
29 any place in the resident district to the nonresident district, or both.

30 (d)(1) A nonresident district shall accept credits toward graduation
31 that were awarded by another district.

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

35 (e) For purposes of determining a school district's ~~state equalization~~
36 aid state foundation funding aid under § 6-20-2305(a) and other funding under

1 § 6-20-2305(b), the nonresident student shall be counted as a part of the
 2 average daily membership of the district to which the student has
 3 transferred.

4 ~~(f) The provisions of this section and all student choice options
 5 created in this section are subject to the following limitations:~~

6 ~~(1) No student may transfer to a nonresident district where the
 7 percentage of enrollment for the student's race exceeds that percentage in
 8 the student's resident district except in the circumstances set forth in
 9 subdivisions (2) and (3) of this subsection;~~

10 ~~(2)(A) A transfer to a district is exempt from the restriction
 11 set forth in subdivision (f)(1) of this section if the transfer is between
 12 two (2) districts within a county and if the minority percentage in the
 13 student's race and majority percentages of school enrollment in both the
 14 resident and nonresident district remain within an acceptable range of the
 15 county's overall minority percentage in the student's race and majority
 16 percentages of school population as set forth by the department.~~

17 ~~(B)(i) By the filing deadline each year, the department
 18 shall compute the minority percentage in the student's race and majority
 19 percentages of each county's public school population from the October Annual
 20 School Report and shall then compute the acceptable range of variance from
 21 those percentages for school districts within each county.~~

22 ~~(ii)(a) In establishing the acceptable range of
 23 variance, the department is directed to use the remedial guideline
 24 established in Little Rock School District v. Pulaski County Special School
 25 District of allowing an overrepresentation or underrepresentation of black or
 26 white students of one fourth (1/4) or twenty five percent (25%) of the
 27 county's racial balance.~~

28 ~~(b) In establishing the acceptable range of
 29 variance for school choice, the department is directed to use the remedial
 30 guideline of allowing an overrepresentation or underrepresentation of
 31 minority or majority students of one fourth (1/4) or twenty five percent
 32 (25%) of the county's racial balance;~~

33 ~~(3) A transfer is exempt from the restriction set forth in
 34 subdivision (f)(1) of this section if each school district within the county
 35 does not have a critical mass of minority percentage in the student's race of
 36 more than ten percent (10%) of any single race;~~

1 ~~(4)(f)(1)~~ In any instance ~~where~~ in which the provisions of this
 2 ~~subsection~~ section would result in a conflict with a desegregation court
 3 order or a district's court-approved desegregation plan, the terms of the
 4 order or plan shall govern~~+~~.

5 ~~(5)(2)~~ The department shall adopt appropriate rules and
 6 regulations to implement the provisions of this section~~+~~.

7 ~~(6)(3)~~ The department shall monitor school districts for
 8 compliance with this section.

9 (g) The state board shall be authorized to resolve disputes arising
 10 under subsections ~~(b)–(f)~~ (b) – (e) of this section.

11 (h)(1) The superintendent of ~~the~~ each district shall ~~cause public~~
 12 ~~announcements to be made over the broadcast media and in the print media~~
 13 provide effective notice at such times and in such a manner as to inform
 14 parents or guardians of students in adjoining districts of the availability
 15 of the public school choice program, the application deadline, and the
 16 requirements and procedure for nonresident students to participate in the
 17 program.

18 (2) The notice shall be provided consistent with standards
 19 established by the Department of Education that are designed to best promote
 20 the findings established under subsection (a) of this section.

21 (i)(1) All superintendents of school districts shall report to the
 22 Equity Assistance Center on an annual basis the race, gender, and other
 23 pertinent information needed to properly monitor compliance with the
 24 provisions of this section.

25 (2) The reports may be on those forms that are prescribed by the
 26 department, or the data may be submitted electronically by the district using
 27 a format authorized by the department.

28 (3) The department may withhold state aid from any school
 29 district that fails to file its report each year or fails to file any other
 30 information with a published deadline requested from school districts by the
 31 center so long as thirty (30) calendar days are given between the request for
 32 the information and the published deadline except when the request comes from
 33 a member or committee of the General Assembly.

34 (4) A copy of the report shall be provided to the Joint Interim
 35 Oversight Committee on Educational Reform.

36