

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

HOUSE BILL 1458

4
5 By: Representative Hobbs
6 By: Senator Bledsoe

For An Act To Be Entitled

9 AN ACT TO ESTABLISH A PUBLIC SCHOOL EXTENSION
10 EDUCATION PROGRAM FOR CERTAIN EXCEPTIONAL STUDENTS
11 WITH SPECIAL LEARNING DISABILITIES; AND FOR OTHER
12 PURPOSES.

Subtitle

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15
16 THE EXTENSION EDUCATION PROGRAM FOR
17 EXCEPTIONAL STUDENTS ACT.

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

21
22 SECTION 1. FINDINGS. The General Assembly finds that:

23 (1) Arkansas law mandates that the state shall provide a free,
24 suitable, and appropriate education for its exceptional public school
25 students who have learning disabilities;

26 (2) Some exceptional public school students diagnosed with
27 autism spectrum disorders and other lifelong developmental disabilities are
28 educationally hindered by the effects of noise, crowds, lights, bells,
29 changing faces, immune system deficits, phobias, and food allergies;

30 (3) Some of these exceptional children and young people need
31 individual instruction or must learn to function in the home or in a home-
32 like environment before they can build on this learning to function outside
33 the home; and

34 (4) An extension education program with maximum flexibility for
35 individual circumstances will provide needed educational choices for these
36 exceptional students and their parents.



1
2 SECTION 2. Arkansas Code Title 6, Chapter 41, is amended to add a new
3 subchapter to read as follows:

4 Subchapter 6 – Extension Education Program for Exceptional Students
5 Act.

6
7 6-41-601. Title.

8 This subchapter shall be known and may be cited as the "Extension
9 Education Program for Exceptional Students Act".

10
11 6-41-602. Definitions.

12 As used in this subchapter:

13 (1) "Account year" means the twelve-month period beginning on
14 the date the Department of Education establishes an Extension Education
15 Program account;

16 (2) "Education provider" means one (1) of the persons identified
17 in § 6-41-606(d);

18 (3) "Eligible student" means a student who:

19 (A) Is four (4) years of age or older but less than
20 twenty-one (21) years of age;

21 (B) Resided with his or her parent in this state for at
22 least six (6) of the twelve (12) months immediately preceding the date of the
23 application for an Extension Education Program account; and

24 (C) Has a developmental delay:

25 (i) That is attributable to lifelong mental or
26 physical impairments or a combination of mental and physical impairments,
27 including without limitation:

28 (a) An autism spectrum disorder;

29 (b) A pervasive developmental disorder;

30 (c) Cerebral palsy; or

31 (d) A seizure disorder;

32 (ii) That is diagnosed by a physician licensed to
33 practice medicine in this state or a psychologist licensed to practice
34 psychology in this state; and

35 (iii) For which the parent, after consultation with
36 the resident school district and subject to § 6-41-605, determines that the

1 use of the Extension Education Program is an appropriate educational choice
2 for the student;

3 (4) "Extension Education Program account" means an account
4 established by the department to pay the educational expenses of an eligible
5 student under this subchapter;

6 (5) "Parent" means a parent, guardian, custodian, or other
7 person with legal authority to act on behalf of an eligible student; and

8 (6) "Resident school district" means the public school district
9 where an eligible student resides.

10
11 6-41-603. Approval of application.

12 (a) The parent of an eligible student may submit an application to the
13 Department of Education for an Extension Education Program account to pay
14 education expenses of an eligible student under § 6-41-606.

15 (b)(1) Within thirty (30) days of receiving an application, the
16 department shall approve or reject the application;

17 (2) If the application is approved, the department shall:

18 (A) Notify the parent of the amount of money in the
19 Extension Education Program account approved for the eligible student; and

20 (B) Provide the parent with forms required to make a claim
21 on the eligible student's account.

22 (3)(A) If the application is rejected, the department shall send
23 a certified letter to the parent explaining the department's reason for
24 rejecting the application.

25 (B) The department may reject an application for an
26 Extension Education Program account for one (1) or more of the following
27 reasons:

28 (i) The student does not meet the criteria for an
29 eligible student under this subchapter;

30 (ii) The person claiming to be the parent does not
31 meet the criteria for a parent under this subchapter; or

32 (iii) An individualized education program has never
33 been developed for the student under § 6-41-217.

34
35 6-41-604. Extension Education Program account--Disbursements.

36 (a) The total amount in an Extension Education Program account is the

1 sum of:

2 (1) An amount equal to the per-student foundation funding under
3 § 6-20-2305(a)(2); plus

4 (2) An amount equal to the per-student alternative learning
5 environment categorical funding amount under § 6-20-2305(b)(2)(A).

6 (b) The Department of Education shall disburse the funds for an
7 Extension Education Program account through the following process:

8 (1)(A) An education provider who delivers instruction under § 6-
9 41-606 may send to the parent of the eligible student an invoice for the
10 instruction provided.

11 (B) Each hour of instruction delivered by an education
12 provider counts toward the annual minimum number of hours of instruction for
13 the eligible student under § 6-41-606;

14 (2)(A) A teacher or specialist involved in developing an
15 individualized education program under § 6-41-606 shall send to the parent of
16 the eligible student an invoice for the teacher's or specialist's services
17 rendered in developing the individualized education program.

18 (B)(i) At the parent's request, the resident school
19 district shall provide reasonable accommodations to meet with the parent of
20 an eligible student who resides in the resident school district and the
21 eligible student, or a representative of the eligible student chosen by the
22 parent, to develop an initial annual individualized education program for the
23 student under § 6-41-217, regardless of whether or not the eligible student
24 is enrolled in the resident school district.

25 (ii)(a) A resident school district may develop an
26 individualized education program for an eligible student who is not enrolled
27 in the resident school district.

28 (b) If the resident school district requests
29 reimbursement for developing the individualized education program, the
30 department shall pay the resident school district from the eligible student's
31 Extension Education Program account in an amount that does not exceed six
32 hundred dollars (\$600) per year;

33 (3)(A) Within thirty (30) days of the receipt of an invoice
34 under this subsection, a parent shall submit to the department a claim on the
35 Extension Education Program account for payment of the invoice.

36 (B) The parent shall provide documentation acceptable to

1 the department that the instruction or services delivered by an education
2 provider shown on the invoice complied with § 6-41-606; and

3 (4)(A) Within thirty (30) days of the date a claim is submitted
4 by a parent, the department shall:

5 (i)(a) Approve the claim.

6 (b) If the department approves the claim, the
7 department shall pay the amount of the claim directly to the person providing
8 the services or instruction; or

9 (ii) Reject the claim.

10 (B) Except as provided under § 6-41-605, the department
11 shall pay approved claims filed by the parent until the full amount in the
12 Extension Education Program account is exhausted.

13 (c)(1) The department shall pool the unexpended balance of the funds
14 in each Extension Education Program account that is unclaimed more than
15 thirty (30) days after the end of each account year.

16 (2) The pooled funds shall provide additional funding for an
17 eligible student's Extension Education Program account due to the
18 extraordinary educational needs of the eligible student and shall be
19 disbursed in the same manner as described in subsection (b) of this section.

20 (3) To request additional funding from the pooled funds for the
21 extraordinary educational needs of an eligible student, the parent of an
22 eligible student with the Extension Education Program account shall submit to
23 the department an application for the additional funding.

24 (4) Upon receiving an application for additional funding from
25 the pooled funds for the extraordinary educational needs of an eligible
26 student, the department shall:

27 (A) Determine whether the eligible student qualifies for
28 additional funding; and

29 (B) Approve or reject the application.

30
31 6-41-605. Review, continuation, or termination of an Extension
32 Education Program account.

33 (a) Annually within thirty (30) days of the end of the account year of
34 an Extension Education Program account, the Department of Education shall
35 review the documentation filed on the Extension Education Program account to
36 determine if the annual minimum hours of instruction under § 6-41-606 have

1 been met.

2 (b) The department shall continue an Extension Education Program
3 account for an eligible student for an additional twelve (12) months if the
4 Extension Education Program account:

5 (1) Is not in probationary status during the account year; or

6 (2) Is in probationary status during the account year but the
7 department determines that the eligible student's education program meets the
8 annual minimum hours of instruction under § 6-41-606.

9 (c) If an eligible student reaches twenty-one (21) years of age during
10 an account year, the department shall prorate the amount of funding available
11 in the Extension Education Program account to fund the period from the
12 beginning of the account year to the date the eligible student reaches
13 twenty-one (21) years of age.

14 (d)(1) If at any time the department determines that the instruction
15 being provided to the eligible student under this section does not comply
16 with the individualized education program for the eligible student, the
17 department shall:

18 (A) Notify the parent in writing of the department's
19 determination explaining why the instruction being provided does not comply
20 with the individualized education program for the eligible student; and

21 (B)(i) At the department's discretion but not more than
22 two (2) times in one (1) calendar year, place the Extension Education Program
23 account on a correction and deficiency watch list until the department
24 determines that the parent has addressed the reasons for placement on the
25 correction and deficiency watch list.

26 (ii) If the department places an account on a
27 correction and deficiency watch list, the department may require the parent
28 or the parent's designated representative to submit to the department and to
29 the resident school district a correction and deficiency action plan to
30 address the issues raised in the department's written notification.

31 (iii) Within sixty (60) days of the receipt of the
32 correction and deficiency action plan, the department shall notify the parent
33 in writing whether or not the department approves or rejects the correction
34 and deficiency action plan.

35 (iv) If the department rejects the correction and
36 deficiency action plan, the department shall inform the parent:

1 (a) Of the specific reason for the rejection;
2 and

3 (b) That the parents may submit a revised
4 correction and deficiency action plan.

5 (e) At least ninety (90) days before the end of an account year, if
6 the department continues an Extension Education Program account that is on
7 the correction and deficiency watch list and the department determines that
8 the reasons for placement of the account on the correction and deficiency
9 watch list are unresolved, the department may:

10 (1) Place the Extension Education Program account in a
11 probationary status for the following twelve-month period; and

12 (2)(A) If the resident school district also requests it, require
13 the parent to accept an individualized education program for the eligible
14 student that is prepared by the resident school district as a part of the
15 probationary status.

16 (B) An individualized education program required by this
17 subdivision (e)(2) shall not direct the parent to obtain other educational
18 services for the eligible student from a specific provider.

19 (f)(1) This section shall not deny the department the right, on
20 uncovering evidence of fraud in an Extension Education Program account, to
21 immediately end disbursements from the account.

22 (2) If evidence of fraud is discovered, the department shall
23 file a police report.

24
25 6-41-606. Individualized education program.

26 (a) The parent of an eligible student whose application for an
27 Extension Education Program account is approved under this subchapter shall
28 implement an individualized education program under § 6-41-217.

29 (b) In addition to the parent, the team developing the individualized
30 education program shall include:

31 (1) A teacher licensed by the Department of Education;

32 (2) A specialist with knowledge in the area of the student's
33 disability; and

34 (3) When directed by the department under § 6-41-605, the
35 resident school district.

36 (c) The individualized education program shall deliver a minimum of

1 one thousand (1,000) hours of annual instruction to the eligible student.

2 (d) A minimum of ninety percent (90%) of the annual hours of
 3 instruction shall be delivered by one (1) or more of the following persons
 4 who are licensed to practice the listed profession in this state:

5 (1) An occupational therapist;

6 (2) A speech therapist;

7 (3) A physical therapist;

8 (4) A recreational therapist

9 (5) A board certified behavior analyst

10 (6) A board certified assistant behavior analyst; or

11 (7)(i) A teacher licensed by the department.

12 (ii) A paraprofessional may also deliver instruction under
 13 the individualized education program if a teacher licensed by the department
 14 delivers one (1) hour of instruction for each one (1) hour of instruction
 15 delivered by the paraprofessional.

16 (e) A parent shall provide a copy of an eligible student's
 17 individualized education program to the department and to the resident school
 18 district.

19
 20 6-41-607. Forms--Rules--Average daily membership.

21 (a)(1) The Department of Education shall develop the forms and
 22 promulgate the rules necessary to implement this subchapter.

23 (2) As much as is reasonably possible, the department shall keep
 24 to one (1) page each form used by a parent to apply for or file a claim on an
 25 Extension Education Program account under this subchapter.

26 (b) The resident school district shall not count in its average daily
 27 membership an eligible student with an Extension Education Program account
 28 under this subchapter.

29
 30 SECTION 3. Arkansas Code § 6-41-101 is amended to read as follows:

31 6-41-101. Services to children with disabilities in nonpublic schools.

32 (a) Except as provided in subsection (d) of this section, ~~Prior to~~
 33 before expending any funding for new programs for children with disabilities
 34 that include funding for evaluation, counseling, assessment, personnel,
 35 equipment, or other capital outlay in other than public schools, the
 36 Department of Career Education shall publish a public notice of the intent to

1 provide additional special services in new programs to ~~the disabled,~~ children
 2 with disabilities.

3 ~~(b) specifying the services in the public notice, and inviting~~ The
 4 public notice shall:

5 (1) Specify the additional special services provided by the new
 6 programs; and

7 (2) Invite organizations that are recognized by the state to
 8 provide education, assessment, jobs skills training, or vocational education
 9 to children with disabilities to submit proposals to provide the additional
 10 special services in the new programs.

11 ~~(b)(c)~~ The department may award one (1) or more contracts to ~~any~~ an
 12 organization that can fulfill the goals and objectives of the program, or the
 13 department may assume responsibility for implementing the program.

14 (d) This section shall not deny a parent his or her right to have the
 15 eligible student's individualized education program modified under § 6-41-601
 16 et seq., or under the Individuals with Disabilities Education Act, 20 U.S.C.
 17 § 1400 et seq. in effect on the effective date of this subsection (d).

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