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2 91st General Assembly
3 Regular Session, 2017
4

A Bill

SENATE BILL 518

5 By: Senator B. Johnson
6 By: Representative Lemons
7

For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE
10 CONCERNING SPECIAL EDUCATION; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO AMEND PROVISIONS OF THE ARKANSAS CODE
14 CONCERNING SPECIAL EDUCATION.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code §§ 6-41-102 and 6-41-103 are amended to read
21 as follows:

22 6-41-102. Extended year program.

23 ~~The School districts shall establish and implement~~ extended year
24 ~~program programs~~ for school-age children with disabilities ~~shall be~~
25 ~~established and implemented by school districts as established by the for~~
26 periods beyond the normal school year in accordance with each student's
27 individualized education program ~~of the child during the summer at the close~~
28 ~~of each school year.~~
29

30 6-41-103. Identification of children with ~~specific learning~~
31 disabilities.

32 (a) ~~(1) As used in this section, the term "specific learning~~
33 ~~disability" means a disorder in one (1) or more of the basic psychological~~
34 ~~processes involved in understanding or in using language, spoken or written,~~
35 ~~which may manifest itself in an imperfect ability to listen, think, speak,~~
36 ~~write, spell, or to do mathematical calculations.~~



1 ~~(2) The term includes such conditions as perceptual handicaps,~~
2 ~~brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.~~

3 ~~(3) The term does not include children who have learning~~
4 ~~problems that are primarily the result of visual, hearing, or motor~~
5 ~~handicaps, of mental retardation, or of environmental, cultural, or economic~~
6 ~~disadvantage.~~

7 ~~(b) It is the intent of the General Assembly to identify children with~~
8 ~~specific learning disabilities and to provide training for teachers~~
9 ~~encountering children with these problems in the regular classroom. The~~
10 ~~intent is not to increase the identification of students in special~~
11 ~~education, but rather to increase the ability of teachers to meet the needs~~
12 ~~of these students in the regular classroom~~ Each local educational agency in
13 the state shall:

14 (1) Ensure that all children with disabilities within its
15 jurisdiction and in need of special education and related services are
16 identified, located, and evaluated, regardless of the severity of their
17 disability, including without limitation:

18 (A) Children with disabilities attending private schools;

19 (B) Highly mobile children with disabilities, including
20 migrant children;

21 (C) Children who are suspected of having a disability and
22 need special education even though they are advancing from grade to grade;
23 and

24 (D) Children with disabilities who are homeless or a ward
25 of the state; and

26 (2) Develop and maintain a written child-find plan outlining the
27 systematic and continuous efforts it will undertake to meet its
28 responsibilities as described in subdivision (a)(1) of this section.

29 ~~(c)(1) The Department of Education shall develop an in-service program~~
30 ~~to train teachers in the recognition of children with specific learning~~
31 ~~disabilities and in teaching strategies for those students.~~

32 ~~(2) Districts are required to keep on file in their school~~
33 ~~district a plan for implementing the recognition of children with specific~~
34 ~~learning disabilities and for incorporating teaching strategies for those~~
35 ~~students in the regular classroom.~~

36 ~~(d)(b)~~ The department State Board of Education shall adopt rules and

1 ~~regulations requiring all public schools in the state to identify all~~
2 ~~children with specific learning disabilities necessary to implement this~~
3 ~~section.~~

4
5 SECTION 2. Arkansas Code § 6-41-203(1), concerning the definition of
6 "child with a disability" for the Children with Disabilities Act of 1973, is
7 amended to read as follows:

8 (1) "A child with a disability" means a person ~~between three (3)~~
9 ~~and twenty one (21) years of age~~ evaluated in accordance with the Individuals
10 with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as having ~~mental~~
11 ~~retardation~~ an intellectual disability, a hearing impairment including
12 without limitation deafness, a speech or language impairment, a visual
13 impairment including without limitation blindness, ~~a serious~~ emotional
14 disturbance, an orthopedic impairment, autism, traumatic brain injury, other
15 health impairments, a specific learning disability, deaf-blindness, or
16 multiple disabilities and who, by reason thereof, needs special education and
17 related services;

18
19 SECTION 3. Arkansas Code § 6-41-203, concerning definitions for the
20 Children with Disabilities Act of 1973, is amended to add an additional
21 subdivision to read as follows:

22 (4) "Free appropriate public education" means special education
23 and related services that:

24 (A) Are provided at public expense, under public
25 supervision, and without charge;

26 (B) Meet the standards of the Department of Education and
27 the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as
28 it existed on January 1, 2017;

29 (C) Include an appropriate preschool, elementary school,
30 or secondary school education; and

31 (D) Are provided in conformity with an individualized
32 education program that meets the requirements of the Individuals with
33 Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on
34 January 1, 2017.

35
36 SECTION 4. Arkansas Code § 6-41-205 is amended to read as follows:

1 6-41-205. Provision for education.

2 (a) The state shall make available a free appropriate public education
3 to each child with a disability from three (3) years of age until the end of
4 the school year in which the child turns twenty-one (21) years of age.

5 (b) The State Board of Education shall provide or cause to be provided
6 by school districts, or in some cases by other departments of state
7 government, by institutions, or by private facilities, all regular and
8 special education, corrective, and supporting services required by children
9 with disabilities to the end that they shall receive the benefits of a free
10 and appropriate public education.

11
12 SECTION 5. Arkansas Code § 6-41-216(f)(1), concerning special
13 education due process hearings, is amended to read as follows:

14 (f)(1) A witness who has been served by subpoena in the manner
15 provided by law and who shall have been paid or tendered the legal fees for
16 travel and attendance as provided by law shall be obligated to attend for
17 examination of the trial of the cause pending before the ~~state board~~ due
18 process hearing officer.

19
20 SECTION 6. Arkansas Code § 6-41-219 is repealed.

21 ~~6-41-219. Tests and evaluations—Children in private schools.~~
22 ~~The requirements of §§ 6-41-215—6-41-217 shall not apply to children~~
23 ~~attending private schools on a mandatory basis but may apply on a voluntary~~
24 ~~basis.~~

25
26 SECTION 7. Arkansas Code §§ 6-41-301 – 6-41-307 are repealed.

27 ~~6-41-301. Purpose.~~
28 ~~The purpose of this subchapter is to provide competent educational~~
29 ~~services for exceptional children of the state as defined in § 6-41-302 for~~
30 ~~whom the regular public school facilities are not available or are not~~
31 ~~adequate to meet the specialized needs of these students.~~

32
33 ~~6-41-302. Definitions.~~

34 ~~As used in this subchapter:~~

35 ~~(1) “Board” means the State Board of Education;~~

36 ~~(2) “Exceptional children” means children with mental~~

1 ~~retardation, hearing impairments (including deafness), speech or language~~
2 ~~impairments, visual impairments (including blindness), serious emotional~~
3 ~~disturbances (hereinafter referred to as "emotional disturbance"), orthopedic~~
4 ~~impairments, autism, traumatic brain injury, other health impairments, or~~
5 ~~specific learning disabilities, who by reason thereof need special education~~
6 ~~and related services;~~

7 ~~(3) "Special education class unit" is the number of pupils in~~
8 ~~attendance the major portion of a month in an approved organized special~~
9 ~~education class in a public school; and~~

10 ~~(4) "Treatment institution" means a hospital or treatment center~~
11 ~~that has a population of school age children who are confined to the~~
12 ~~institution for medical reasons for long periods of time.~~

13
14 ~~6-41-303. Powers and duties of the State Board of Education generally.~~

15 ~~(a) The State Board of Education is empowered to initiate, inspect,~~
16 ~~approve, and supervise a program of education for exceptional children.~~

17 ~~(b) It is also designated as the agency for cooperation with the state~~
18 ~~and federal government, the approved treatment centers, and the local schools~~
19 ~~of Arkansas in carrying out the provisions of this subchapter.~~

20 ~~(c) The board shall make the necessary rules and regulations in~~
21 ~~keeping with the provisions of this subchapter.~~

22 ~~(d) The board shall employ the necessary personnel for the proper~~
23 ~~administration of this subchapter, contingent upon available funds for this~~
24 ~~purpose.~~

25
26 ~~6-41-304. School districts — Procedures for participation in program.~~

27 ~~(a)(1) All school districts in the state are eligible to make~~
28 ~~application for service and payment under this subchapter.~~

29 ~~(2) A school district desiring to operate a special education~~
30 ~~program and planning to participate under the provisions of this subchapter~~
31 ~~will be allowed to make application with the State Board of Education on~~
32 ~~prescribed forms at a date prior to the opening of school.~~

33 ~~(3) The approved application for a school district will serve as~~
34 ~~a contract between the school district and the board to supply the approved~~
35 ~~funds.~~

36 ~~(4) There may be no mingling of these state funds with federal~~

1 ~~funds unless specifically provided for in the application.~~

2 ~~(5) If for any reason the number of approved applications~~
3 ~~exceeds the available funds, the proration of funds to the school districts~~
4 ~~will be the responsibility and the authority of the state board.~~

5 ~~(6) Payment for home or bedside instruction will be distributed~~
6 ~~according to rules and regulations established by the state board.~~

7 ~~(b) In any school district where properly interested persons,~~
8 ~~agencies, parents, or guardians of five (5) or more of any one (1) type of~~
9 ~~exceptional child petition the school district board of directors for a~~
10 ~~special class, it shall be the duty of the school authorities to request the~~
11 ~~state board to cooperate in the establishment of such a class under the rules~~
12 ~~and regulations established for this purpose by the state board.~~

13
14 ~~6-41-305. Cooperation among school districts.~~

15 ~~(a)(1) Two (2) or more school districts may join together to establish~~
16 ~~a special class or classes.~~

17 ~~(2) In such case, one (1) school district shall be designated as~~
18 ~~a controlling agent, and all reimbursement for the education of exceptional~~
19 ~~children from the State Board of Education will be made to this particular~~
20 ~~school district.~~

21 ~~(3) Local revenues or tuition from other school districts~~
22 ~~participating in the cooperative will be paid to the controlling school~~
23 ~~district on an accepted prorated formula per child.~~

24 ~~(b) In school districts in which there is not a sufficient number for~~
25 ~~the organization of a special class, exceptional children may be entered in~~
26 ~~special classes in any other school district on a plan acceptable to both~~
27 ~~school districts and the board.~~

28
29 ~~6-41-306. Classes in treatment institutions.~~

30 ~~(a) The State Board of Education may establish hospital and~~
31 ~~convalescent classes in approved treatment institutions and pay the cost of~~
32 ~~the educational programs thereof.~~

33 ~~(b)(1) The Treasurer of State and the board are authorized to pay to~~
34 ~~the treatment institution school the cost of the program of education agreed~~
35 ~~upon by the board and the governing board of the treatment institution~~
36 ~~school.~~

1 ~~(2) However, no part of payment from this subchapter may be used~~
2 ~~to pay for school buildings, premises, or plants.~~

3
4 ~~6-41-307. Appropriations.~~

5 ~~Appropriations made by the General Assembly for services provided in~~
6 ~~this subchapter may be used as follows:~~

7 ~~(1) As payments to school districts in keeping with approved~~
8 ~~applications;~~

9 ~~(2) As payments to treatment institutions in keeping with~~
10 ~~approved applications;~~

11 ~~(3) For the purchase of specialized materials and equipment; and~~

12 ~~(4) Allowances to school districts and treatment institutions~~
13 ~~for administration costs of the program.~~

14
15 SECTION 8. Arkansas Code §§ 6-41-309 and 6-41-310 are repealed.

16 ~~6-41-309. Standards for instruction—Personnel qualifications.~~

17 ~~(a) Courses of study, teacher-pupil ratio, adequacy of methods of~~
18 ~~instruction, in-service training, qualifications of teachers, therapists,~~
19 ~~educational examiners, technicians, and necessary equipment for special~~
20 ~~education programs must comply with the requirements established by the State~~
21 ~~Board of Education.~~

22 ~~(b) Boards of directors of school districts in which a special class~~
23 ~~is established are to employ all personnel according to the special~~
24 ~~qualifications and training prescribed by the state board.~~

25
26 ~~6-41-310. Eligibility—Limitation.~~

27 ~~(a) Specific eligibility requirements for admission to these special~~
28 ~~services will be the responsibility of the board.~~

29 ~~(b) Eligibility for the services of this subchapter shall be limited~~
30 ~~to those students enrolled in the public schools or approved treatment~~
31 ~~institutions in the state.~~

32
33 SECTION 9. Arkansas Code § 6-41-312 is amended to read as follows:

34 6-41-312. Reports.

35 ~~(a) Local boards of education and treatment institutions~~ Public school
36 districts and entities receiving state or federal funds to provide special

1 education programming shall keep an accurate account, in the manner and on
2 the forms prescribed by the ~~board~~ Department of Education, of all moneys
3 expended for special education programs and shall report those expenditures
4 to the ~~State Board of Education~~ department.

5 (b) A report of the average daily attendance of all students enrolled,
6 including ~~pupils instructed by home teachers showing the number of hours~~
7 ~~devoted to such work~~ students receiving instruction in the homebound setting,
8 will be made to the ~~Department of Education~~ department.

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