

Chapter 45 - Arkansas Better Chance Program

6-45-101. Title.

6-45-102. Legislative intent.

6-45-103. Definitions.

6-45-104. Construction.

6-45-105. Establishment of the Arkansas Better Chance Program.

6-45-106. Application process — Allocation of funding.

6-45-107. Publication of funding availability and program criteria.

6-45-108. Criteria for determining need.

6-45-109. Certification by the Division of Child Care and Early Childhood Education.

6-45-110. Assessment.

6-45-111. Early childhood program assessments.

Annotations

A.C.R.C. Notes. Acts 2007, No. 736, § 26, amended § 6-23-501 to provide in part:

“(d)(1) An open-enrollment public charter school shall have a right of first refusal to purchase or lease for fair market value a closed public school facility or unused portions of a public school facility located in a public school district from which it draws its students if the public school district decides to sell or lease the public school facility.

“(2) The public school district may not require lease payments that exceed the fair market value of the property.

“(3) The application of this subsection (d) is subject to the rights of a repurchaser under § 6-13-103 regarding property taken by eminent domain.

“(4) A public school district is exempt from the provisions of this subsection (d) if the public school district, through an open bid process, receives and accepts an offer to lease or purchase the property from a purchaser other than the open-enrollment public charter school for an amount that exceeds the fair market value.

“(5) The purposes of this subsection (d) are to:

“(A) Acknowledge that taxpayers intended a public school facility to be used as a public school; and

“(B) Preserve the option to continue that use.

“(6) Nothing in this subsection (d) is intended to diminish the opportunity for an Arkansas Better Chance program to bid on the purchase or lease of the public school facility on an equal basis as the open-enrollment charter school.”

Acts 2009, No. 1421, § 24, provided:

“BETTER CHANCE PROGRAM ADMINISTRATIVE FEES. The Department of Education is hereby authorized to expend a maximum of two percent (2%) of available funds for administration of the Better Chance Program. Up to 1.8% of available funds shall be used to administer the program and to monitor program grantees to ensure compliance with programmatic standards. Prior to the utilization of the remaining 0.2% of available funds, the Department of Education shall seek prior review and approval of the Arkansas Legislative Council or Joint Budget Committee by providing a written request to include the following: a) the Department's reason(s) for the use of the funds and b) the amount of funds that will be expended. The Department may contract with the Division of Child Care and Early Childhood Education to administer the program.

“Determining the maximum number of employees and the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation act(s) for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization law. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

“The provisions of this section shall be in effect only from July 1, 2009 through June 30, 2010.”

Acts 2010, No. 293, § 22, provided: “BETTER CHANCE PROGRAM ADMINISTRATIVE FEES.

The Department of Education is hereby authorized to expend a maximum of two percent (2%) of available funds for administration of the Better Chance Program. Up to 1.8% of available funds shall be used to administer the program and to monitor program grantees to ensure compliance with programmatic standards. Prior to the utilization of the remaining 0.2% of available funds, the Department of Education shall seek prior review and approval of the Arkansas Legislative Council or Joint Budget Committee by providing a written request to include the following: a) the Department's reason(s) for the use of the funds and b) the amount of funds that will be expended. The Department may contract with the Division of Child Care and Early Childhood Education to administer the program.

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“The provisions of this section shall be in effect only from July 1, 2010 through June 30, 2011.”

Acts 2011, No. 1075, § 22, provided: “BETTER CHANCE PROGRAM ADMINISTRATIVE FEES.

The Department of Education is hereby authorized to expend a maximum of two percent (2%) of available funds for administration of the Better Chance Program. Up to 1.8% of available funds shall be used to administer the program and to monitor program grantees to ensure compliance with programmatic standards. Prior to the utilization of the remaining 0.2% of available funds, the Department of Education shall seek prior review and approval of the Arkansas Legislative Council or Joint Budget Committee by providing a written request to include the following: a) the Department's reason(s) for the use of the funds and b) the amount of funds that will be expended. The Department may contract with the Division of Child Care and Early Childhood Education to administer the program.

“Determining the maximum number of employees and the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the

General Assembly. This is usually accomplished by delineating such maximums in the appropriation act(s) for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization law. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

“The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.”

Acts 2012, No. 269, § 22, provided: “BETTER CHANCE PROGRAM ADMINISTRATIVE FEES.

The Department of Education is hereby authorized to expend a maximum of two percent (2%) of available funds for administration of the Better Chance Program. Up to 1.8% of available funds shall be used to administer the program and to monitor program grantees to ensure compliance with programmatic standards. Prior to the utilization of the remaining 0.2% of available funds, the Department of Education shall seek prior review and approval of the Arkansas Legislative Council or Joint Budget Committee by providing a written request to include the following: a) the Department's reason(s) for the use of the funds and b) the amount of funds that will be expended. The Department may contract with the Division of Child Care and Early Childhood Education to administer the program.

“Determining the maximum number of employees and the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation act(s) for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization law. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

“The provisions of this section shall be in effect only from July 1, 2012 through June 30, 2013.”

Effective Dates. Acts 1991, Nos. 212, 216, § 6: July 1, 1991. Emergency clause provided: “It is hereby found and determined by the General Assembly that a need exists to provide state financial assistance to appropriate early childhood programs in order to identify and address the critical needs of three to five year old educationally deprived children. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation and protection of the public, peace, health, and safety shall be in full force and effect from July 1, 1991.”

Acts 1995, No. 850, § 8: effective for taxable years beginning Jan. 1, 1995.

Acts 1995, No. 850, § 12: Mar. 31, 1995. Emergency clause provided: “It is hereby found and determined by the General Assembly that the State of Arkansas is in serious need to provide for the health, welfare and education of the State's children by encouraging child care facilities to offer an ‘appropriate early childhood program’ and this Act is designed to meet that need by providing tax incentives to encourage construction of these facilities. Therefore, an emergency

is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.” Acts 1999, No. 1222, § 21: Apr. 8, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly, that it is essential to the effective and efficient administration of the Child Care Licensing program that the responsibility for reviewing appeals be placed in the Child Care Appeal Review Panel under the Department of Human Services, as soon as possible and that this act is designed to accomplish this purpose and should be given effect immediately. 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 the date of its approval of the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

6-45-101. Title.

Statute text

The title of this chapter shall be the "Arkansas Better Chance Program Act”.

History

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1.

6-45-102. Legislative intent.

Statute text

It is the intent of the General Assembly to expand the availability of developmentally appropriate early childhood programs, including, but not limited to, Head Start, the Home Instruction for Parents of Preschool Youngsters, Therapeutic Child Development Programs, and Parents As Teachers. Children have the capacity to learn at very early ages, and participating in high-quality early care and education programs provides preschool children with the skills, enrichment, and learning opportunities that increase their chances of future success in school. Children from all backgrounds who receive high-quality early care and education score higher on tests of both cognitive and social skills in their early school years. Low income children who receive high-quality early care and education score significantly higher on tests of reading and math from their primary years through middle adolescence. These high-quality early care and education services can be both classroom, center-based, or home-based programs. Therefore, the General Assembly finds that the state should provide assistance to educationally deprived young children by funding successful and innovative programs that are designed to increase the learning of these children and provide for their optimal development.

History

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 2003, No. 1332, § 1.

Annotations

Research References

U. Ark. Little Rock L. Rev.

Survey of Legislation, 2003 Arkansas General Assembly, Education Law, Better Chance Program, 26 U. Ark. Little Rock L. Rev. 390.

6-45-103. Definitions.

Statute text

As used in this chapter:

(1) "Appropriate early childhood program" means a developmentally appropriate program for young children, birth through five (5) years of age, approved by the Department of Education as complying with the regulatory guidelines of the early childhood state accreditation by the Department of Human Services and Arkansas Better Chance Core Quality Approval Standards of the Department of Education to be issued by the Department of Education pursuant to this chapter;

(2) "Arkansas Better Chance for School Success" means a developmentally appropriate early care and education program for children three (3) and four (4) years of age created under § 6-45-105(a)(1)(B);

(3) "Arkansas Early Childhood Commission" or "commission" means a twenty-four member advisory body appointed by the Governor to perform certain duties and responsibilities relating to the development, expansion, and coordination of early childhood programs, including, but not limited to, serving as the advisory body to the Department of Education on early childhood program issues;

(4) "Arkansas HIPPY Advisory Board" means a citizen board appointed through the Home Instruction for Parents of Preschool Youngsters (HIPPY) Regional Technical Assistance and Training Center to develop public awareness, to promote program expansion, to encourage local development of the Home Instruction for Parents of Preschool Youngsters, and to provide consultation and guidance to the center; and

(5) "Department" means the Department of Education or its authorized agents.

History

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 1997, No. 1132, § 36; 1999, No. 1222, § 3; 2003, No. 1105, § 1; 2003, No. 1332, § 2; 2009, No. 28, § 1.

Annotations

Amendments. The 2009 amendment substituted "a twenty-four (24) member" for "an eighteen-member" in (3).

6-45-104. Construction.

Statute text

(a)(1) Except as required under subdivision (a)(2) of this section, this chapter shall not require any school district to participate.

(2) A local school is required to work with the Department of Education and its local community to establish, promote, and assist in the development of a program under the Arkansas Better Chance for School Success Program to serve all children in the school as provided in § 6-45-108, if:

(A) The school has had seventy-five percent (75%) or more students scoring below proficiency on the primary benchmark exams or other exams designated by the department in the preceding two (2) school years; or

(B) The school has been designated by the department as being in school improvement status under § 6-15-425 or is located in a school district in academic distress.

(b) Furthermore, nothing in this chapter shall require parents or legal guardians to enroll their children under five (5) years of age in any program established pursuant to this chapter.

History

History. Acts 1991, No. 212, § 2; 1991, No. 216, § 2; 1997, No. 1132, § 37; 2003, No. 1332, § 3; 2003 (2nd Ex. Sess.), No. 49, § 1.

6-45-105. Establishment of the Arkansas Better Chance Program.

Statute text

(a)(1)(A) The Department of Education shall establish the Arkansas Better Chance Program to assist in the establishment and funding of the appropriate early childhood programs for children from birth through five (5) years of age.

(B) Within the Arkansas Better Chance Program there is established the Arkansas Better Chance for School Success Program for providing appropriate early care and education programs for children three (3) years of age and four (4) years of age as identified under § 6-45-108(a).

(2)(A) Beginning with the 1991-1992 school year, the department shall award grants or contracts to appropriate early childhood programs selected by the department in accordance with specified programmatic standards.

(B)(i) These standards will be developed by the department, with the advice and assistance of the Arkansas Early Childhood Commission.

(ii) Standards for funding the Home Instruction Program for Preschool Youngsters will be developed in conjunction with the Arkansas HIPPY Advisory Board.

(C) The Home Instruction Program for Preschool Youngsters Regional Technical Assistance and Training Center shall be defined and funded as an integral part of the Home Instruction Program for Preschool Youngsters to provide necessary training, technical assistance, and program support to program sites in Arkansas.

(b) The programmatic standards and other rules and regulations necessary for the implementation of the Arkansas Better Chance Program shall be adopted by the State Board of Education in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c)(1) The department may expend a maximum of two percent (2%) of available funds to administer the Arkansas Better Chance Program and to monitor Arkansas Better Chance Program grantees to ensure compliance with programmatic standards.

(2) The department may contract with the Division of Child Care and Early Childhood Education to administer the Arkansas Better Chance Program.

History

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 1993, No. 923, § 1; 1997, No. 1132, § 38; 2003, No. 1332, § 4; 2009, No. 376, § 52.

Annotations

A.C.R.C. Notes. Acts 1997, No. 1132, § 41, provided:

“That part of the General Education Division of the Department of Education pertaining to operations of the Early Childhood Commission, including only the two percent (2%) administrative component of the Better Chance Program, is hereby transferred by a Type 2

transfer as provided in § 25-2-105 to the Department of Human Services, Division of Child Care and Early Childhood Education.”

Amendments. The 2009 amendment, in (c), substituted “Arkansas Better Chance Program” for “program” in three places, and made a minor stylistic change.

6-45-106. Application process — Allocation of funding.

Statute text

(a)(1)(A) Any early childhood program accredited and quality approved by the Department of Human Services according to standards approved by the Department of Education may apply for funding, regardless of the sponsorship of the program. Local school districts may apply for funding to operate early childhood programs, not including public school kindergarten, but an appropriate early childhood program need not be affiliated with a school district in order to receive funding.

(B) All applications submitted by sectarian or sectarian-affiliated programs must first be reviewed to assure that any approval of funding will not result in a violation of the First Amendment to the United States Constitution.

(2)(A) A local-to-state match will be required in the ratio of forty to sixty (40:60), except that the Division of Child Care and Early Childhood Education may waive the requirement of the local-to-state match if:

(i) The school is in a district that has been designated by the Department of Education as being in academic distress; and

(ii) The division determines that the school is unable to provide the local-to-state match requirement after the division has assisted the school in identifying potential funding sources to provide local-to-state match requirements.

(B) The local match may consist of cash or appropriate in-kind services.

(b) In order to be considered, an application must contain all information required by the Department of Education's regulatory guidelines.

(c)(1) In allocating funding for the Arkansas Better Chance for School Success Program, priority consideration shall be given to:

(A) Schools that have seventy-five percent (75%) or more students scoring below proficiency on the primary benchmark exams or other exams designated by the Department of Education in the preceding two (2) school years; and

(B) Schools that have been designated by the Department of Education as being in school improvement status under § 6-15-425 or are located in a school district in academic distress.

(2) The goal of the state is to make available an Arkansas Better Chance for School Success Program for an additional one-fifth (1/5) of the qualifying students each year over a period of five (5) years, at which time programs shall be available in all schools statewide.

(3) The priority considerations for funding under the Arkansas Better Chance for School Success Program shall not affect the funding of the Arkansas Better Chance Program and shall not create any priority for funding the Arkansas Better Chance for School Success Program over the Arkansas Better Chance Program.

(4) Any programs given priority consideration under this subsection shall continue to receive priority funding as necessary to continue an established program even though the criteria under subdivision (c)(1) of this section no longer exist for that school district.

History

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 1997, No. 1132, § 39; 2001, No. 1183, § 1; 2003, No. 1105, § 5[2]; 2003, No. 1332, § 5; 2003 (2nd Ex. Sess.), No. 49, § 2; 2005, No. 1447, § 1.

Annotations

A.C.R.C. Notes. Acts 2003, No. 1105, did not contain a Section 2, 3, or 4.

Acts 2003, No. 1105, § 5, provided:

“Any licensed early childhood program with early childhood accreditation by the Department of Human Services and meeting the Arkansas Better Chance Core Quality Approval Standards of the Department of Education may apply for funding regardless of the sponsorship of the program. Local school districts may apply for funding to operate early childhood programs, not including public school kindergarten, but an appropriate early childhood program need not be affiliated with a school district in order to receive funding.”

Amendments. The 2005 amendment added (c)(4).

6-45-107. Publication of funding availability and program criteria.

Statute text

The Department of Education shall annually provide notification to school districts and to other appropriate providers of the availability of funds under the Arkansas Better Chance Program and shall include in such notification the programmatic standards and criteria for determination of eligibility for funding under the program.

History

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1.

6-45-108. Criteria for determining need.

Statute text

(a)(1) All children three (3) years of age and four (4) years of age who are members of a family with a gross family income not exceeding two hundred percent (200%) of the federal poverty guidelines are eligible to attend an Arkansas Better Chance for School Success Program if there is a program available in the school district where the child resides and if there is available space for the child to attend the program.

(2) The Department of Education and the Division of Child Care and Early Childhood Education may develop a fee schedule and establish eligibility based on family income for children who are not eligible under subdivision (a)(1) of this section, but priority enrollment shall be allowed to children eligible under subdivision (a)(1) of this section.

(b) The department and the division shall review various criteria for identifying and targeting the areas of the state with the greatest need for early childhood programs.

(c) The State Board of Education, with the advice and assistance of the division, shall adopt the appropriate criteria for identifying Arkansas children with the greatest need to participate in Arkansas Better Chance-funded early childhood programs.

History

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 2003, No. 1332, § 6; 2003 (2nd Ex. Sess.), No. 49, § 3.

6-45-109. Certification by the Division of Child Care and Early Childhood Education.

Statute text

(a) The Division of Child Care and Early Childhood Education shall certify child care facilities which have an appropriate early childhood program, as defined in § 6-45-103. Certification numbers shall be issued to those child care facilities that meet the applicable qualifications.

(b) Upon certification of the child care facilities, the division shall provide a listing of all certified facilities and their certification numbers to the Director of the Department of Finance and Administration for the purpose of the income tax credit or refund provided for in §§ 26-51-502 and 26-51-507.

History

History. Acts 1993, No. 1268, § 2; 1995, No. 850, § 1; 1997, No. 1132, § 40; 2001, No. 413, § 1.

Annotations

Cross References. Tax refunds for construction of employer operated child care facilities, §§ 26-52-516 and 26-53-132.

6-45-110. Assessment.

Statute text

(a)(1) The Division of Child Care and Early Childhood Education shall be responsible for assessment of students enrolled in the Arkansas Better Chance for School Success Program.

(2)(A) Assessment shall begin upon enrollment in the program and continue until each child completes the fourth grade, so long as the child is enrolled in a public school in the state.

(B) The division and the Department of Education shall work cooperatively to ensure that the assessments are conducted as required by this section.

(b)(1) Children in the program shall be assessed annually to provide an indication of each child's progress towards school readiness.

(2) This annual assessment shall be directly aligned with the Arkansas Early Childhood Education Framework/Early Learning Guidelines and shall serve to promote curriculum development and instructional methods that assist in achievement of the intended outcome of readiness for kindergarten.

(3)(A) The assessment shall address a child's strengths, progress, and needs and shall serve as a central part of an effective early childhood program.

(B) The assessment will be used in making sound decisions about teaching and learning and to identify areas of concern that may require focused intervention.

(c)(1) A comprehensive research study shall be implemented to evaluate the program to ensure that the program goals and intended child outcomes are being achieved.

(2) The study shall be designed to use sound research-based evidence to determine whether the programs meet the expected standards of quality and whether they are achieving the intended child outcomes.

(3) This research shall include children entering the program at ages three (3) and four (4) years and follow the children through completion of the fourth grade benchmark exams.

(d) Research results will be provided annually to the Governor, the Senate Interim Committee on Education, and the House Interim Committee on Education.

History

History. Acts 2003 (2nd Ex. Sess.), No. 49, § 4.

6-45-111. Early childhood program assessments.

Statute text

(a) The Division of Child Care and Early Childhood Education shall assess each early childhood program in this state that receives state funding under this subchapter based on nationally recognized standards and assessments that may include without limitation the following components:

- (1) Curriculum and learning environment;
- (2) Training and education of staff;
- (3) Adult-to-child ratios;
- (4) Student assessments;
- (5) Health and safety conditions;
- (6) Family involvement; and
- (7) Site visits.

(b) The certification under § 6-45-109 of a child care facility that has an early childhood program is subject to the review of the assessment by the division.

(c) The division annually shall provide a summary of the results of assessments conducted under this section concerning the quality of the early childhood programs assessed to the Governor, the interim Senate Committee on Education, and the interim House Committee on Education.

History

History. Acts 2011, No. 1130, § 1.