

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.

INTERIM STUDY PROPOSAL 2009-059

State of Arkansas

As Engrossed: H3/6/09

87th General Assembly

A Bill

Regular Session, 2009

HOUSE BILL 1665

By: Representative M. Martin

By: Senator Bledsoe

Filed with: House Interim Committee on Education
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

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

Subtitle

THE EXTENSION EDUCATION PROGRAM FOR
EXCEPTIONAL STUDENTS ACT.

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

SECTION 1. FINDINGS. The General Assembly finds that:

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

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

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



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

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

6 Subchapter 6 – Extension Education Program for Exceptional Students
7 Act.

8
9 6-41-601. Title.

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

12
13 6-41-602. Definitions.

14 As used in this subchapter:

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

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

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

21 (A) Is four (4) years of age or older but less than
22 nineteen (19) years of age;

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

26 (C) Has a developmental delay:

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

30 (a) An autism spectrum disorder;

31 (b) A pervasive developmental disorder;

32 (c) Cerebral palsy; or

33 (d) A seizure disorder;

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

1 (iii) As a result of which the parent, after
2 consultation with the resident school district and subject to § 6-41-605,
3 determines that the use of the Extension Education Program is an appropriate
4 educational choice for the student;

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

8 (5) “Parent” means a parent, guardian, custodian, or other
9 person with legal authority to act on behalf of an eligible student; and

10 (6) “Resident school district” means the public school district
11 where an eligible student resides.

12
13 6-41-603. Approval of application.

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

17 (b) Within thirty (30) days of receiving an application, the
18 department shall:

19 (1) Approve or reject the application;

20 (2) If the application is approved:

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

23 (B) Provide the parent with forms required to make a claim
24 on the eligible student’s account; and

25 (3)(A) If the application is rejected, send a certified letter
26 to the parent explaining the department’s reason for rejecting the
27 application.

28 (B) The department may reject an application for an
29 Extension Education Program account for one (1) or more of the following
30 reasons:

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

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

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

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

(a) The total amount in an Extension Education Program account is the sum of:

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

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

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

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

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

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

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

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

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

(3)(A) Within thirty (30) days of the receipt of an invoice under

1 this subsection (b), a parent shall submit to the department a claim on the
2 Extension Education Program account for payment of the invoice.

3 (B) The parent shall provide documentation acceptable to
4 the department that the instruction delivered by an education provider shown
5 on the invoice complied with § 6-41-606; and

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

8 (i) Approve or reject the claim; and

9 (ii) If the claim is approved, pay the amount of the
10 claim directly to the person providing the services or instruction.

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

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

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

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

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

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

30 (B) Approve or reject the application.

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

34 (a) Annually within thirty (30) days of the end of the account year of
35 an Extension Education Program account, the Department of Education shall
36 review the documentation filed on the Extension Education Program account to

1 determine if the annual minimum hours of instruction under § 6-41-606 have
2 been met.

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

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

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

10 (c) If an eligible student reaches nineteen (19) years of age during
11 an account year, the department shall prorate the amount of funding available
12 in the Extension Education Program account to fund the period from the
13 beginning of the account year to the date the eligible student reaches
14 nineteen (19) years of age.

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

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

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

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

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

36 (iv) If the department rejects the correction and

1 deficiency action plan, the department shall inform the parent:

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

3 and

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

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

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

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

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

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

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

25
26 6-41-606. Individualized education program.

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

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

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

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

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

1 (c) The individualized education program shall deliver a minimum of
2 one thousand (1,000) hours of annual instruction to the eligible student.

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

6 (1) An occupational therapist;

7 (2) A speech therapist;

8 (3) A physical therapist;

9 (4) A recreational therapist; or

10 (5)(i) A teacher licensed by the department.

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

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

18
19 6-41-607. Rules.

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

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

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

28
29 SECTION 3. Arkansas Code § 6-41-101 is amended to read as follows:

30 6-41-101. Services to children with disabilities in nonpublic schools.

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

1 disabilities.

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

4 (1) Specify the services provided by the new programs; and

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

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

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

16
17 */s/ M. Martin*
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