

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 87th General Assembly
3 Regular Session, 2009

A Bill

HOUSE BILL 1665

4
5 By: Representative M. Martin
6
7

For An Act To Be Entitled

8
9 AN ACT TO ESTABLISH A PUBLIC SCHOOL EXTENSION
10 EDUCATION PROGRAM FOR CERTAIN EXCEPTIONAL
11 STUDENTS WITH SPECIAL LEARNING DISABILITIES; AND
12 FOR OTHER PURPOSES.
13

Subtitle

14
15 THE EXTENSION EDUCATION PROGRAM FOR
16 EXCEPTIONAL STUDENTS ACT.
17
18

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

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

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

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

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

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



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

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

5
 6 6-41-601. Title.

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

9
 10 6-41-602. Definitions.

11 As used in this subchapter:

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

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

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

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

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

23 (C) Has a developmental delay:

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

27 (a) An autism spectrum disorder;

28 (b) A pervasive developmental disorder;

29 (c) A cognitive or intellectual disability;

30 (d) Cerebral palsy; or

31 (e) 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) As a result of which the parent, after
 36 consultation with the resident school district and subject to § 6-41-605,

1 determines that the use of the Extension Education Program is an appropriate
2 educational choice 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) Within thirty (30) days of receiving an application, the
16 department shall:

17 (1) Approve or reject the application;

18 (2) If the application is approved:

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

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

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

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

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

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

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

35
36 6-41-604. Extension Education Program account--Disbursements.

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

3 (1) An amount equal to the per-student foundation funding under §
4 6-20-2305(a)(2); plus

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

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

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

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

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

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

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

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

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

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

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

6 (i) Approve or reject the claim; and

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

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

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

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

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

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

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

28 (B) Approve or reject the application.

29
30 6-41-605. Review, continuation, or termination of an Extension
31 Education Program account.

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

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

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

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

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

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

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

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

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

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

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

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

1 and

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

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

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

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

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

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

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

23

24 6-41-606. Individualized education program.

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

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

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

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

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

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

1 public notice shall:

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

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

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

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

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