

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING THE GUIDELINES, PROCEDURES, AND ENFORCEMENT OF THE
ARKANSAS PUBLIC SCHOOL CHOICE ACT
October 2007

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Rules Governing the Guidelines, Procedures, and Enforcement of the Arkansas Public School Choice Act.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education's authority for promulgating these rules is pursuant to Ark. Code Ann. §§ 6-11-105, 6-15-429, 6-18-206 and Act 552 of 2007.

3.00 DEFINITIONS

3.01 Student – for purposes of this rule means any person legally enrolled or entitled to be enrolled in a public school district in Arkansas.

3.02 Resident district - for purposes of this rule means the public school district where a student is considered to reside pursuant to Ark. Code Ann. § 6-18-202.

3.03 Non-resident district - for purposes of this rule means the public school district a student last made legal application to attend pursuant to the Arkansas Public School Choice Act for the current school year.

3.04 Application - for purposes of this rule means a request submitted to a non-resident district to transfer from a student's resident district to a non-resident district on the official form approved by the Arkansas Department of Education.

3.05 Board - for purposes of this rule means the Arkansas State Board of Education.

3.06 Department - for purposes of this rule means the Arkansas Department of Education.

3.07 Minority - for purposes of this rule minority includes the following racial groups: African American, Hispanic, Asian or Pacific Islander, American Indian or Alaskan Native.

3.08 Majority - for purposes of this rule majority includes the following racial group: Caucasian.

4.00 PROCESS AND PROCEDURES FOR SCHOOL DISTRICT PARTICIPATION IN PUBLIC SCHOOL CHOICE PROGRAM

4.01 Each school district shall participate in public school choice consistent with this section.

- 4.02 Every school district must adopt a resolution setting forth specific standards for acceptance and rejection of applications.
 - 4.02.1 Such standards may include the capacity of a school program, class, grade level, or school building.
 - 4.02.2 School districts shall not be required to add teachers, staff, or classrooms or in any way exceed current requirements or standards established by existing law when considering whether to accept an application.
 - 4.02.3 A school district's standards shall include a statement that priority will be given to applications of siblings or step-siblings residing in the same residence or household of students already attending the district by choice where an application has been filed.
 - 4.02.4 A school district's standards for acceptance and rejection of applications shall not include a student's previous academic achievement, athletic or extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings except that an expulsion from another school district may be included as a standard.
- 4.03 A district shall make public announcements over the broadcast media and in print media at such times and in such manner so as to inform parents or guardians of students in adjoining districts of the availability of the program, the July 1 application deadline, and the requirements and procedure for nonresident students to participate in the program.

5.00 PROCESS AND PROCEDURES FOR APPLICATIONS FOR TRANSFER PURSUANT TO THE PUBLIC SCHOOL CHOICE PROGRAM

- 5.01 Any student may make application to enroll and attend a school in a district in which the student does not reside, subject to the restrictions and procedures contained in this rule and regulation and Arkansas law.
 - 5.01.1 Before a student may attend a school in a nonresident district, the student's parent or guardian must submit an application on the form approved by and provided by the Department (see attached application) to the nonresident district.
 - 5.01.2 The application to the nonresident district must be postmarked no later than July 1 of the year the student would begin the fall semester in the nonresident school district.
- 5.02 Any student attending a resident district classified as being in academic distress shall be eligible and entitled to apply to transfer to another geographically contiguous nonresident district not in academic distress during the time period a district is classified as being in academic distress subject to the restrictions allowed in 5.02.1 and 8.00.

- 5.02.1 Any student submitting an application under this section shall not be required to file the petition by the July 1 deadline, but shall meet all other requirements and conditions of this rule.
- 5.03 Within thirty (30) days of receipt of an application for public school choice transfer from a nonresident student, the nonresident district shall notify the parent or guardian and the resident district in writing (via first class United States mail) as to whether the nonresident district accepted or rejected the student's application.
- 5.03.1 If the application is rejected, the nonresident district must state in the notification letter the specific reasons for rejection.
- 5.03.2 If the application is accepted, the nonresident district shall state in the notification letter:
- a. An absolute deadline for the student to enroll in the district, or the acceptance notification is null; and
 - b. Any instructions for the renewal procedures established by the district.
- 5.04 Any student who accepts a school choice transfer may return to his or her school district during the course of the school year.
- 5.04.1 If a transferred student returns to his or her resident district during the school year, the student's transfer is voided and the student shall reapply for any future transfer.
- 5.05 Any student that submitted a valid application for transfer, which was denied a transfer by the nonresident district, may petition the Board to reconsider the application for transfer. The petitioning party shall set forth its arguments and evidence supporting the request for the Board's reconsideration of the application along with a copy of the nonresident district's notification of rejection letter.
- 5.05.1 The petition for reconsideration before the Board shall be in writing and shall be postmarked (via certified first class United States mail, return receipt requested) no later than ten (10) days after the student or student's parents or guardian receives notice of rejection from the nonresident district. Any request for a hearing before the Board must be made in the petition for reconsideration.
- 5.05.2 The petitioning party must mail or personally file their petition for reconsideration of the application to the nonresident district with the Office of the Director of the Department.
- 5.05.3 The nonresident district may submit in writing additional information, evidence or arguments supporting its rejection of the student's application.

- 5.05.4 The Board, at its sole discretion, may grant a public hearing on the petition for reconsideration or consider without a public hearing the petition, briefs and evidence submitted in writing before issuing its final decision on the petition for reconsideration of the application.
- 5.05.5 The Board may require the nonresident district to reconsider its rejection of the student application by a date established by the Board before deciding whether to grant the petition for reconsideration of the application.
- 5.05.6 The Board, at its discretion, shall have the authority to require any person associated with the student application (i.e. student, parent, guardian, etc.), the nonresident district or the resident district to appear in person or by pleading before the Board as a witness on the matter of a petition for reconsideration of an application.

6.00 TRANSPORTATION OF STUDENTS IN PUBLIC SCHOOL CHOICE PROGRAM

- 6.01 Transportation of a student from the resident district to a nonresident district is the responsibility of the student or the student's parents or guardians.
 - 6.01.1 When a student transfers under section 5.02, the cost of transportation of a student from the resident district to the nonresident district shall be the responsibility of the resident district.
- 6.02 The nonresident district may enter into a written agreement with the student, student's parents or guardians, or resident school district to provide transportation to or from any place in the resident district to the nonresident district, or both.
- 6.03 A nonresident district shall terminate transportation services to a student upon receipt of written notice (via certified first class United States mail, return receipt requested) from the Department to cease and desist transporting a student from the student's resident district.

7.00 NONRESIDENT DISTRICT'S RESPONSIBILITIES

- 7.01 The nonresident district shall accept all credits toward graduation of a student that were awarded by another district.
- 7.02 The nonresident district shall award a diploma to a nonresident student accepted for transfer under the Public School Choice Program if that student meets the nonresident district's graduation requirements.
- 7.03 The nonresident student accepted for transfer under the Public School Choice Program shall be counted as a part of the average daily membership of the nonresident district to which the student transferred.

8.00 PROVISIONS FOR AND LIMITATIONS ON PUBLIC SCHOOL CHOICE TRANSFERS

8.01 No student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that percentage in the student's resident district, except as provided in 8.01.1 and 8.01.2.

8.01.1 A transfer is permitted if (1) the transfer is between districts within the same county; and (2) if the transfer does not result in either district exceeding the acceptable range of variance for representation of minority/majority students. The acceptable range of variance is determined as provided in Section 8.02, or

8.01.2 A transfer is permitted if each school district affected by the transfer does not have a critical mass of minority percentages of more than ten percent (10%) of any single.

8.02 The Department shall each year compute the minority/majority racial percentage(s) of the public school population for each county from the October Annual School Report. School districts may vary in the under-representation or over-representation of minority/majority students by a maximum of twenty-five percent (25%) of the difference in majority/minority percentages for the county as determined by the Department. For example, when the Department has calculated the county's racial balance for each student race category, each district is allowed an over-representation or under-representation of minority or majority students of a range of up to twenty-five (25%) of the county's racial balance.

8.03 No student transfer shall be permitted under the Public School Choice Program when such a transfer would conflict with a district's desegregation court order or a district's court-approved desegregation plan.

9.00 REPORTING AND MONITORING OBLIGATIONS

9.01 The Department shall monitor school districts for compliance with the Public School Choice law (Ark. Code Ann. § 6-18-206) and these rules.

9.02 Each school district shall provide to the Department, within thirty (30) working days of receipt of a written request from the Department, any information or reports the Department deems necessary for review and determination of the school district's compliance with the Public School Choice law and these rules.

9.03 All school districts shall report to the Equity Assistance Center of the Department on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.

9.04 The reports may be on those forms that are prescribed by the Department, or the data may be submitted electronically by the district using a format authorized by the Department.

9.05 The Department may withhold state aid from any school district that fails to file its report each year or fails to file any other information with a published

deadline requested from school districts by the Equity Assistance Center, so long as thirty (30) calendar days are given between the request for the information and the published deadline, except when the request comes from a member or committee of the General Assembly.

10.00 DISPUTES

- 10.01 Any school district may petition the State Board of Education to resolve alleged disputes arising under subsections (b) – (f) of Ark. Code Ann. § 6-18-206.
- 10.02 Any school district seeking to petition the State Board of Education must submit with its petition proof of public notice of the district’s intent to petition the State Board. The public notice shall be published at least once per week for two consecutive weeks in a newspaper of general circulation in all the school districts impacted or involved in the alleged dispute.
- 10.03 The school district shall file its written petition with the Office of the Director of the Department at least thirty (30) working days prior to the State Board of Education meeting where the petition will be heard.
- 10.04 The school district shall provide proof in the petition that they have served (via certified first class United States mail, return receipt requested) a copy of their petition to the superintendent of all other school districts involved in the alleged dispute.
- 10.05 The petition shall set forth in writing the particular issues of dispute under the Public School Choice Program, the specific relief for which the petitioning party is requesting the Board to address, and shall list all school districts and other relevant parties in the dispute.
- 10.06 The petition shall set forth what efforts have been attempted by all relevant school boards and superintendents of the involved school districts to resolve the alleged dispute.
- 10.07 The petition shall state in writing whether the petitioning school district requests a hearing before the Board.
- 10.08 The Board, in its sole discretion, shall determine whether to grant a public hearing on a petition or to take action on the petition and pleadings submitted without granting a public hearing.
- 10.09 Any school district that is listed as a party in a petition to resolve a dispute shall file a written response with the Office of the Director of the Department. The written response shall be submitted for the Board’s consideration along with the petition within ten (10) working days of receipt of notice of the petition.
- 10.10 The Board shall issue a written decision regarding all issues of alleged dispute mentioned in the petition, and the written decision shall be served on all the school districts listed as parties of dispute in the petition (via certified first class United States mail, return receipt requested) within twenty (20) working days of the Board’s final decision.

- 10.11 Except for the procedures specifically set forth in Ark. Code Ann. § 6-18-206 and these rules, all hearings conducted by the Board shall be conducted pursuant to the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-201 et. seq..