

**DIVISION OF ELEMENTARY AND SECONDARY EDUCATION RULES
GOVERNING PUBLIC SCHOOL CHOICE
PUBLIC COMMENTS AND RESPONSES**

Commenter Name: Lucas Harder, Arkansas School Boards Association (12/20/2021)

Comment (1): The following technical changes need to be made:

- Section 3-1.02.1: There is an unnecessary “A” between “the” and “parent.”
- Section 3-1.03: There is an unnecessary “A” between “the” and “parent.”
- Section 3-1.07 through 3-1.14: Due to previous deletions, these should all be two numbers lower; in the new Section 3-1.10, “3-1.10.1” and “3-1.10.2” should read “3-1.08.1” and “3-1.08.2”; and in the new Section 3-1.10.1, “3-1.10” should read “3-1.08.”
- In Section 4-1.02.3, I would recommend adding “the” before both “resident district” and “non-resident district.”

Division Response: **Comments considered. Non-substantive changes made.**

Comment (2): Both the Public School Choice Act of 2015 and Opportunity School Choice Act give authority over acceptance and rejection to the superintendent rather than the board. As such, there’s no statutory process for a school choice application to be taken before the district Board to accept or reject the application. As such, I would recommend amending this section to have the transfer become effective upon the acceptance of the application by the superintendent.

Division Response: **Comment considered.** This language, which mirrors Ark. Code Ann. § 6-18-227(b)(2)(A)(ii)(b), was in the rules prior to the amendment. Some reorganizing of the rules caused it to be moved to the end of the rules. Because this language is set forth in law, the recommended change would require legislative action. **No changes made.**

Commenter Name: Tripp Walter, Arkansas Public School Resource Center (1/11/22).

Comment (1) and (2): In Section 2-3.01 and 2-5.01, the language “or student over the age of eighteen (18)” is not contained in the statute; it is only contained in the Opportunity School Choice Act.

Division Response: **Comments considered.** This language was added to provide consistency between the laws. **No changes made.**

Comment (3): Concerning Section 3-1.04.4, while Ark. Code Ann. § 6-18-227(4) grants the Division authority governing the use of school capacity as a basis for denying admission, why was the capacity set at 95 (ninety-five) percent.

Division Response: **Comment considered.** The 95% capacity figure was not changed from prior rules. **No changes made.**

Comment (4): In Section 3-1.02.1, delete either the words “the” or “a” in the first line of the section.

Division Response: **Comment considered. Non-substantive change made.**

Comment (5): Concerning Section 3-4.07, this language is not contained in Ark. Code Ann. § 6-18-227; it was added to the Public School Choice statute (at Ark. Code Ann. 6-18-1907(b)(4)) only by Section 7 of Act 490 of 2021.

Division Response: **Comment considered.** Both the Public School Choice Act and Opportunity School Choice Act require that applications be filed with a school district “no later than May 1.” Because of this language, even before Act 490 of 2021, the State Board did not hear appeals under either the Opportunity or Public School Choice Act when a school district rejected the applications as a result of the applicant filing the application outside of the time period allowed by law. The reasoning behind the language in the Public School Choice Act, although not restated in the Opportunity School Choice Act, applies with like force to the Opportunity School Choice Act. Allowing appeals for denials based on late filings would render the May 1 deadline date superfluous. **No changes made.**