

DECLARATION

I, Tom W. Kimbrell, Commissioner of Education, hereby declare as follows:

1. I am the Commissioner of Education for the State of Arkansas. In that capacity, I serve as the Chief Executive of the Arkansas Department of Education (ADE) and Secretary (ex-officio) of the Arkansas State Board of Education.

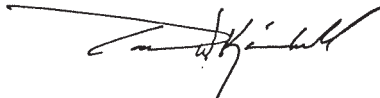
2. Attached to this declaration at "Exhibit A" is a copy of a Commissioner's Memo distributed by the ADE on or about May 1, 2013. The Commissioner's Memo is entitled, "The Public School Choice Act of 2013," and is referenced by the following number: COM-13-061.

3. Commissioner's Memos are designed to be informative in nature. In and of themselves, Commissioner's Memos do not carry with them the force of law or regulation. As noted within the memorandum itself, COM-13-061 is described as "informational," meaning that the memorandum does not require a response and is not regulatory in nature. Further, as noted in the first full paragraph on page two (2) of COM-13-061, the information contained within the memorandum was provided by the ADE as "non-regulatory guidance."

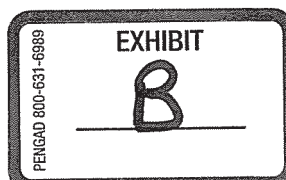
4. It was not the intent of the ADE to extend the April 1 deadline for declaring an exemption set forth in Act 1227 of 2013. As is clearly stated within the memorandum itself, the ADE did not "attempt to reestablish a deadline that is set in law." The ADE requested that school districts provide, by May 17, 2013, information regarding the status of any desegregation orders or federal mandates that might affect the ability of those districts to participate in school choice pursuant to Act 1227 of 2013. As stated in the text of COM-13-061, the ADE made the request so that "school districts and the ADE [could] properly administer all aspects of Act 1227 in an orderly fashion and so that parents, students, patrons, and school district leaders may be aware of those school districts which are subject to desegregation orders or federal agency mandates remedying the effects of past racial segregation. . . ."

5. Attached to this declaration as "Exhibit B" is a copy of the Arkansas Department of Education Emergency Rules Governing the Public School Choice Act of 2013. These emergency rules were adopted by the State Board of Education on May 13, 2013. The State Board of Education approved these rules to administer the provisions of Act 1227 of 2013 until non-emergency rules could be fully implemented through the Arkansas Administrative Procedure Act.

Signed this 19th day of June, 2013.



Tom W. Kimbrell, Ed.D.
Commissioner of Education





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Approved Memos: The Public School Choice Act of 2013



ARKANSAS
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Version History

Title	The Public School Choice Act of 2013
Memo Number	COM-13-061
Memo Date	5/1/2013
Attention	Co-op Directors; Superintendents; Charter School Administrators
Memo Type	Informational
Response Required	No
Section	Legal Services
Regulatory Authority	Act 1227 of 2013
Contact Person	Jeremy Lasiter
Phone Number	501-682-4227
E-Mail	jeremy.lasiter@arkansas.gov
Memo Text	Act 1227 of 2013, which established the Public School Choice Act of 2013, went into effect on April 16, 2013. The Act includes the following deadlines:

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| April 1 | School districts notify the Arkansas Department of Education (ADE) if they wish to declare an exemption from participation in the Public School Choice Act of 2013. |
| June 1 | Students/parents apply for school choice to a nonresident district (with a copy of the application to the resident district). |
| June 1 | The ADE reports to each school district the net maximum number of school choice transfers for the current school year. |
| August 1 | The superintendent of the nonresident district notifies the parent and resident district of the acceptance or denial of a school choice application. |

A copy of the Act is attached to this memorandum (Attachment 1).

EXHIBIT

A

Because the deadlines set forth in the Act are important for the appropriate and orderly administration of the Public School Choice Act of 2013, it is necessary for the ADE to provide the following non-regulatory guidance:

Notice of Exemption

As noted above, Act 1227 did not become effective until April 16, 2013. However, the Act sets April 1 as the date by which a school district must notify the ADE of its intention to declare an exemption for participation in public school choice under the Act. The ADE will not attempt to reestablish a deadline that is set in law. However, so school districts and the ADE can properly administer all aspects of Act 1227 in an orderly fashion and so that parents, students, patrons and school district leaders may be aware of those school districts which are subject to desegregation orders or federal agency mandates remedying the effects of past racial segregation, the ADE requests that school districts notify the ADE of any exemption by **Friday, May 17, 2013**. School districts should mail such exemptions to:

Office of the Commissioner
ATTN: Arkansas Public School Choice Act
Four Capitol Mall
Little Rock, AR 72201

Contemporaneous with notice to the ADE, the ADE also requests that school districts notify the superintendents of each of their geographically contiguous school districts of the exemption. Please note that Act 1227 does not provide the ADE the authority to rule a particular exemption valid or invalid. However, the Act does allow for such exemptions if "the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation." The ADE will post a list of school districts that declare an exemption on its website.

Application

Act 1227 sets June 1 as the date by which students or parents must apply for school choice. The application form must be approved by the Department of Education. At its May 13, 2013, meeting, the State Board of Education will consider emergency rules to administer Act 1227. An application form will be attached to the emergency rules. An application form is also attached to this memorandum. (Attachment 2). School districts should use this application form until such time as the State Board of Education provides a new or revised form. Any school choice applications submitted by students or parents prior to the date of this memorandum should be affixed to the back of the attached form and maintained within the records of the resident and nonresident school districts.

Net Maximum Number of Transfers

Act 1227 established "a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the district . . . of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year." The Act also requires the ADE to report to school districts, by June 1, the net maximum number of school choice transfers for the current year. Because the 2013-2014 school year will be the first school year during which Act 1227 will be effective, the ADE will provide to school districts a calculation of each district's three-quarter average daily membership for the 2012-2013 school year, along with a number that represents three percent (3%) of that three-quarter average daily membership. Complete three-quarter average daily membership numbers for the 2012-2013 school year are not yet available. However, the ADE compiled the attached spreadsheet based upon information currently available. (Attachment 3). While the data is not yet complete, school districts may refer to the attached spreadsheet for planning and administration purposes.

Emergency Rules

During its May 13, 2013, meeting, the State Board of Education will consider emergency rules to administer Act 1227. Should the State Board of Education approve the emergency rules, a copy of the emergency rules will be sent to each school district superintendent. The ADE anticipates that the emergency rules will closely mirror the text of Act 1227.

ADE leadership realizes that Act 1227 is a complex law. It will not be possible to address every potential question that might arise regarding implementation of the Act. However, the ADE will update this guidance as appropriate. School districts are urged to seek the assistance of their locally-retained legal counsel in interpreting the

requirements of the Act.

Attachments

Act 1227 of 2013.pdf
ADM 2012-2013.pdf
School_Choice_Application _2013.pdf

Version: 11.0

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