

**SUMMARY OF PROPOSED CHANGES TO THE
ARKANSAS DEPARTMENT OF EDUCATION RULES GOVERNING THE
CALCULATION METHODS FOR DECLINING ENROLLMENT AND
STUDENT GROWTH FUNDING FOR PUBLIC SCHOOL DISTRICTS**

Formatting (indentations, capitalizations, etc) made throughout to keep consistent formatting with ADE rules.

Renumbering where insertions/deletions made.

Rule title updated.

Section 1.01 Regulatory authority updated to include Act 741 of 2017.

Section 1.02 Updated to reflect corrected rule title

Section 2.01 Removed reference to calculation method

Section 3.00 Definitions updated, removed, and added as necessary to clarify the terms used in the rule

Section 4.00 Section updated to provide clarity to the process for determining how declining enrollment funding is calculated, it allowable uses, and the requirement for tracking of expenditures from the fund.

Section 5.00 Section updated to remove changes made in the law. Additionally, Section updated to provide clarity to the process for determining how student growth funding is calculated, it allowable uses, and the requirement for tracking of expenditures from the fund.

Arkansas Department of Education
Rules Governing the Calculation Methods for Declining Enrollment and Student Growth Funding
for Public School Districts

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING DECLINING ENROLLMENT AND STUDENT GROWTH FUNDING
FOR PUBLIC SCHOOL DISTRICTS

~~October 2009~~ _____

1.00 Authority AUTHORITY

- 1.01 The Arkansas State Board of Education's authority for promulgating these Rules is promulgates these rules pursuant to Ark. Code Ann. §§ 6-11-105, 6-20-604, 6-20-2203, and 6-20-2301 et seq., and Act 741 of 2017 1501 of the 2009 Regular Session.
- 1.02 These ~~Rules~~ rules shall be known as the Arkansas Department of Education (ADE) Rules Governing ~~the Calculation Methods for Declining Enrollment and Student Growth Funding~~ for Public School Districts (Rules).

2.00 Purpose PURPOSE

- 2.01 The purpose of these Rules is to provide ~~the calculation methods for~~ information regarding Declining Enrollment and Student Growth Funding for public school districts.

3.00 Definitions DEFINITIONS

- 3.01 Average Daily Membership (ADM) means the total number of days of school attended plus the total number of days absent by students in ~~grades~~ kindergarten through grade twelve (K-12) during the first three (3) quarters of each school year, divided by the number of school days actually taught in the school district during that period of time, rounded up to the nearest hundredth.
- ~~3.02~~ Current Fiscal Year means the present fiscal year, in progress, beginning on July 1 and ending on the following June 30.
- ~~3.03~~ Declining Enrollment Funding means the amount of state financial aid provided to an eligible school district from funds made available for a the decline in the ADM of the school district occurring between the prior fiscal in the preceding school year compared to the school year before the preceding school year and the fiscal year prior to the prior fiscal year.
- ~~3.03~~ Excess Net Revenues Plus Calculated Miscellaneous Funds means the amount of net revenues plus calculated miscellaneous funds a school district receives that is greater than the foundation funding amount. Excess net revenues plus calculated miscellaneous funds excludes the amount remitted to the ADE above ninety-eight percent (98%) of assessed value for the uniform rate of tax.
- ~~3.04~~ Fiscal Year means the annual school year for Arkansas that consists of the twelve month period beginning July 1 and ending on the following June 30.

- ~~3.05~~ ~~Fiscal Year Prior to the Prior Fiscal Year means the fiscal year preceding the prior fiscal year.~~
- ~~3.06~~ ~~Prior Fiscal Year means the fiscal year immediately preceding the current fiscal year.~~
- 3.04 Net Revenues means actual revenues generated from ad valorem taxes and distributed to a school district multiplied by the ratio derived from dividing the uniform rate of tax by the total millage rate of the school district.
- 3.075 Quarterly Average Daily Membership means the ADM for one (1) quarter of a school year used for calculating student growth funding pursuant to Section 5.00 of this Rule these Rules.
- 3.086 Special Needs Isolated Funding means the amount of funding provided for an eligible school district meeting the criteria established in Ark. Code Ann. § 6-20-604.
- 3.097 Student Growth Funding means the amount of state financial aid provided to an eligible school district from funds made available for the growth in the ADM of the school district occurring between for each current fiscal year sequential quarter beginning with prior fiscal year quarter four (4) and ending with current fiscal year quarter three (3) over the compared to each corresponding prior fiscal year three-quarter ADM of the school district.

4.00 ~~Declining Enrollment Funding~~ DECLINING ENROLLMENT FUNDING

- ~~4.01~~ ~~Declining enrollment funding is provided for to an eligible school district that has experienced a decline in ADM in the prior fiscal year compared to the fiscal year prior to the prior fiscal year.~~
- 4.021 Declining enrollment funding is equal to the three-quarter ADM of the prior fiscal year, subtracted from the average of the three-quarter ADM of the prior fiscal year and the ADM of the fiscal year prior to the prior fiscal year, multiplied by the current amount of foundation funding per-student established by the General Assembly.
- 4.032 Pursuant to AR Ark. Code Ann. § 6-20-2305 (a)-(3)-(A), no school district shall receive both declining enrollment funding and special needs isolated funding under AR Ark. Code Ann. § 6-20-604.
- 4.043 Pursuant to Ark. Code Ann. § 6-20-2305 (a)(3)(C), no No school district shall receive both declining enrollment funding and student growth funding under AR Code Ann. § 6-20-2305. These two funding categories are calculated using ADM data from two different time periods. Therefore, within one fiscal year, it is possible for a school district:
- 4.043.1 To qualify for declining enrollment funding due to a decline in prior fiscal year three-quarter ADM compared to the three-quarter ADM in the fiscal year prior to the prior fiscal year; and
- 4.043.2 To qualify for student growth funding due to growth in quarterly ADM beginning with prior fiscal year quarter four (4) and ending with current fiscal year quarter three (3) occurring between one or more of the current fiscal year quarters over the compared to each corresponding prior fiscal year three-quarter ADM of the school district.

- 4.054 ~~The ADE will provide funding of the funding category or categories of funding that yields the most funding to the school district. The ADE will compare by comparing declining enrollment funding to student growth funding plus special needs isolated funding minus excess net revenues plus calculated miscellaneous funds to declining enrollment funding, special needs isolated to declining enrollment funding, or student growth plus special needs isolated funding to declining enrollment funding.~~
- 4.065 ~~Declining enrollment funding is unrestricted funding. However, under AR Ark. Code Ann. § 6-20-2203, by February 15 of each year for each school district receiving declining enrollment funding, the ADE shall submit to the state board, the Governor, and the Senate and House Education Committees, ADE a report listing the amount of declining enrollment funding received under AR Ark. Code Ann. § 6-20-2305(b)(a)(3)(A), how the funds were expended, the amount expended, and any other information required by the ADE. This report shall be submitted through the Arkansas Public School Computer Network (APSCN) in Cycle 9. To enable the tracking of expenditures of declining enrollment funding for these required reports, the funds may not be transferred to another fund prior to expenditure, but must be expended directly from the declining enrollment fund.~~

5.00 ~~Student Growth Funding~~ STUDENT GROWTH FUNDING

- 5.01 Student growth funding is calculated as the sum of the following amounts:
- 5.01.1 One quarter (1/4) of the current foundation funding amount ~~of per-student foundation~~ as established by the General Assembly multiplied by the increase, if any, in the school district's:
- 5.01.1.1 Previous fiscal year fourth quarter ADM over compared to the fiscal year three-quarter ADM in the year prior to the aforementioned fourth quarter ADM;
- 5.01.1.2 Current fiscal year first quarter ADM ~~over~~ compared to the prior fiscal year three-quarter ADM;
- 5.01.1.23 Current fiscal year second quarter ADM ~~over~~ compared to the prior fiscal year three-quarter ADM;
- 5.01.1.34 Current fiscal year third quarter ADM ~~over~~ compared to the prior fiscal year three-quarter ADM; and
- 5.01.1.45 A final comparison will be made of the ADM from quarters one (1), two (2), and three (3) used in Sections 5.01.1.2, 5.01.1.3, and 5.01.1.4 above. Current fiscal year fourth quarter ADM over prior fiscal year three-quarter ADM. The comparison will check for changes to quarters one (1), two (2), and three (3) ADM from Cycle 6 to Cycle 7 that have an effect on the student growth funding calculation. The comparison will take place after the fiscal year has ended, but any resulting funding adjustments should be coded to the fiscal year just ended.
- 5.02 ~~By January 31 of each fiscal year, the ADE shall calculate an amount of student growth funding using the current fiscal year quarterly ADM for the first quarter and an estimation~~

~~of the ADM for the second, third, and fourth quarters. No less than sixty percent (60%) of this amount will be distributed to eligible school districts by January 31.~~

- ~~5.03 — The estimated ADM for quarters two, three, and four will be calculated by multiplying the current fiscal year quarter one ADM by the respective percentage change in prior fiscal year ADM for quarters two, three, and four over prior fiscal year quarter one ADM.~~
- ~~5.04 — By April 30 of each fiscal year, the ADE shall distribute to eligible school districts, forty percent (40%) of the amount calculated above (or the balance if less than 40% remains).~~
- ~~5.05 — By July 31 of each fiscal year, the ADE shall calculate the amount of student growth funding using the actual quarterly ADM for all four (4) quarters of the applicable school year.~~
- ~~5.06 — By August 31 of the fiscal year following the fiscal year in which the estimated student growth funding is received, if the actual amount is:

 - ~~5.06.1 — More than the estimated amount, the ADE shall distribute the difference to the school district; or~~
 - ~~5.06.2 — Less than the estimated amount, the school district shall refund the difference to the ADE.~~~~
- 5.02 If a school district’s net revenues minus any repayment of funds to the state above the ninety-eight (98%) URT, plus miscellaneous funds calculated under Ark. Code Ann. § 6-20-2308(b)(1)(A) exceeds the foundation funding amount, a school district shall be eligible to receive the amount of calculated student growth funding that exceeds the net revenues minus any repayment of funds to the state above the ninety-eight (98%) URT, plus miscellaneous funds calculated under Ark. Code Ann. § 6-20-2308(b)(1)(A).
- 5.073 Increases in ADM resulting solely from consolidation or annexation shall be excluded from the student growth funding calculation.
- 5.084 No school district shall receive both declining enrollment funding and student growth funding.
- 5.085 Student growth funding is provided to eligible school districts and open-enrollment public charter schools to help bridge the gap between the foundation funding amount calculated using prior year three-quarter ADM and any quarterly growth in ADM subsequent to the prior-year three-quarter ADM. Local education agencies that receive the foundation funding amount based on current year three-quarter ADM are ineligible for student growth funding.
- 5.096 Student growth funding is unrestricted funding. However, under Ark. Code Ann. § 6-20-2203, by February 15 of each year for each school district receiving student growth funding, the ADE shall submit to the state board, the Governor, and the Senate and House Education Committees a report listing the amount of student growth funding received under Ark. Code Ann. § 6-20-2305(c)(2), how the funds were expended, the amount expended, and any other information required. To enable the tracking of expenditures of student growth funding for these required reports, the funds may not be transferred to

another fund prior to expenditure, but must be expended directly from the student growth fund.

DRAFT

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Arkansas Department of Education
DIVISION Fiscal and Administrative Services
DIVISION DIRECTOR Greg Rogers
CONTACT PERSON Mary Claire Hyatt
ADDRESS Four Capitol Mall, Room 301-A, Little Rock, AR 72201
PHONE NO. 501-683-0960 FAX NO. 501-682-4249 E-MAIL MaryClaire.Hyatt@Arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Mary Claire Hyatt
PRESENTER E-MAIL Maryclaire.Hyatt@Arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after “Short Title of this Rule” below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

- *****
1. What is the short title of this rule? ADE Rules Governing the Calculation Methods for Declining Enrollment and Student Growth Funding for Public School Districts
2. What is the subject of the proposed rule? The funding calculations for declining enrollment and student growth funding
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. _____
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? _____
When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes

No

5. Is this a new rule? Yes No
If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. §§ 6-11-105, 6-20-604-, 6-20-2203, 6-20-2301 et seq. and Act 741 of 2017.

7. What is the purpose of this proposed rule? Why is it necessary? These changes are required as a result of legislative changes made in Act 741 of 2017.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). <http://www.arkansased.gov/divisions/legal/rules/pending>

9. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:

Date: September 26, 2018

Time: 1:30pm

Arkansas Department of Education
Arch Ford Building, Auditorium
Four Capitol Mall

Place: Little Rock, AR 72201

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

October 22, 2018

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

Estimated December 2018

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice.

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e).

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. Public school districts

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Education

DIVISION Fiscal and Administrative Services

PERSON COMPLETING THIS STATEMENT Mary Claire Hyatt

TELEPHONE 501-683-0960 **FAX** 501-682-4249 **EMAIL:** MaryClaire.Hyatt@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE ADE Rules Governing the Calculation Methods for Declining Enrollment and Student Growth Funding for Public School Districts

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;

(b) The reason for adoption of the more costly rule;

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____

Special Revenue _____
 Other (Identify) _____
 Total _____

Special Revenue _____
 Other (Identify) _____
 Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue 0 _____
 Federal Funds 0 _____
 Cash Funds 0 _____
 Special Revenue 0 _____
 Other (Identify) 0 _____
 Total 0 _____

General Revenue 0 _____
 Federal Funds 0 _____
 Cash Funds 0 _____
 Special Revenue 0 _____
 Other (Identify) 0 _____
 Total 0 _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ 0 _____

\$ 0 _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 0 _____

\$ 0 _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
 - (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
 - (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
 - (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.