

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Education

DIVISION Learning Services

PERSON COMPLETING THIS STATEMENT Courtney Salas-Ford

Courtney.Salas-

TELEPHONE 501-682-4752 **FAX** 501-682-4249 **EMAIL:** Ford@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 Rules Governing the Succeed Scholarship Program

- 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 Does this proposed, amended, or repealed rule have a financial impact?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;
N/A

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

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

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

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

Next Fiscal Year

General Revenue N/A

General Revenue N/A

Federal Funds _____

Federal Funds _____

Cash Funds _____

Cash Funds _____

Special Revenue _____

Special Revenue _____

Other (Identify) _____

Other (Identify) _____

Total N/A

Total N/A

(b) What is the additional cost of the state 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.

Arkansas Department of Education
Rules Governing the Succeed Scholarship Program
January ~~2016~~ _____ 2018

1.00 Authority

- 1.01 The Arkansas State Board of Education’s authority for promulgating these Rules is pursuant to Ark. Code Ann. §§ 6-11-105, ~~6-20-2301 et seq.~~, and ~~6-41-101 et seq.~~ 6-41-901 et seq., and ~~Act 1178 of 2015~~ Acts 327, 637, and 894 of 2017.
- 1.02 These Rules shall be known as the Arkansas Department of Education (ADE) Rules Governing the Succeed Scholarship Program.

2.00 Purpose

- 2.01 The purpose of these Rules is to establish guidelines for the implementation of the Succeed Scholarship Program in order to provide a scholarship to a private school of choice for students in foster care and students with disabilities that have an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

3.00 Definitions

- 3.01 “Department” or “ADE” is the Arkansas Department of Education.
- 3.02 “Foster care” means the care of a child by a group home or group facility on a twenty-four-hour-a-day basis away from the home of the child’s parent or parents;
- 3.03 “Foster parent” means the responsible official or officials of a group home or group facility that provides foster care to a child;
- 3.04 “Parent” means a student’s parent or foster parent;
- 3.05 “Individualized education program” or “IEP” means a written statement for a child with a disability that is developed, reviewed, and revised by a public school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., and its implementing regulations, 34 C.F.R. §§ 300.320 through 300.324.
- ~~3.026~~ “Scholarship Payment” is a disbursement to the parent or legal guardian of a student participating in the Succeed Scholarship Program contingent upon appropriation and funding for the purpose of implementing the Succeed

Scholarship Program.

- 3.037 “School District” is a geographic area with an elected board of directors that qualifies as a taxing unit for purposes of *ad valorem* property taxes under Title 26 of the Arkansas Code, and whose board conducts the daily affairs of public schools pursuant to the supervisory authority vested in it by the General Assembly and Title 6 of the Arkansas Code. For the purposes of these Rules, all references to “school district” include open enrollment public charter schools, except as waived by the State Board of Education pursuant to Ark. Code Ann. § 6-23-301 *et seq.*
- 3.048 “School Year” is the year beginning July 1 of one calendar year and ending June 30 of the next calendar year.
- 3.09 “Services Plan” means a written statement that describes the special education and related services the public school district will provide to a parentally-placed child with a disability enrolled in a private school who has been designated to receive services, consistent with 34 C.F.R. §§ 300.137 through 300.139.
- 3.0510 “Severely Disabled” is an individual that has an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*

4.00 Student Eligibility

- 4.01 A parent or legal guardian of a public school student with a disability may apply for a Succeed Scholarship to enroll his or her child in a private school if:
- 4.01.1 The student is currently enrolled in a public school district and has attended public school for at least the one (1) full school year immediately prior to the school year for which the scholarship payments would be disbursed;
- 4.01.1.1 ~~If the student is a dependent of an active duty member of any branch of the United States armed forces, Section 4.01.1 does not apply. Section 4.01.1 does not apply if:~~
- 4.01.1.1.1 The student is a dependent of an active duty member of any branch of the United States Armed Forces; or
- 4.01.1.1.2 The Superintendent of the student’s resident school district waives the requirement;

4.01.2 The student; ~~has an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*; and~~

4.01.2.1 Is in foster care; or

4.01.2.2 Has an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*;

4.01.2.2.1 A student who has had the enrollment requirement waived by the superintendent under the provisions of 4.01.1.1.2, must have had an IEP active on the last date he or she was enrolled in a public school, or in the case of a preschool student who has never been enrolled in a public school, have had an IEP or Individual Program Plan (IPP), as defined by the Department of Human Services Division of Developmental Disabilities Services standards, active on the last date he or she was enrolled in the preschool program.

4.01.3 The student has been accepted for admission into a private school that is eligible to participate in the Succeed Scholarship Program;:

4.01.4 The parent has notified the student's current school district of the request for a scholarship at least sixty (60) days before the date of the first scholarship payment; and

4.01.5 For students in foster care, the Department of Human Services approves the student's placement in the private school.

~~4.02 The parent or legal guardian shall:~~

~~4.02.1 Apply for the scholarship at least sixty five (65) days before the date of the first scheduled scholarship payment for the private school to which the student has been accepted for admission; and~~

~~4.02.2 Notify the superintendent of the student's current and resident school district(s) within five (5) business days of submitting the application.~~

4.03~~2~~ If a student is accepted for admission into a private school upon the availability of space, a parent or legal guardian shall notify the student's current and resident school district(s) at least sixty (60) days before the student enrolls in the private

school and ~~thereby becomes eligible for~~ receives the first scholarship payments for attending that private school payment.

4.03 The Department shall not approve more than twenty (20) scholarships per academic year for students in foster care.

~~4.04 If the parent or legal guardian of a student already participating in the program wishes to participate in the program in the upcoming school year and to enroll the student for the upcoming school year in a private school from the list of private schools eligible to participate in the program other than the participating private school in which the student is currently enrolled, the parent or legal guardian shall follow the full application process contained in these Rules.~~

~~4.04.1 Section Sections 4.01.1, 4.02.2, and 4.03 of these Rules shall not apply to a student already participating in the program who is applying to attend a different eligible private school.~~

~~4.04.2 Section 4.01.2.2 shall be construed as requiring that the student had an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* upon the student's initial participation in the program.~~

~~4.04.3 Approval of an application under Section 4.04 is not guaranteed.~~

5.00 Private School Eligibility

5.01 A private school shall notify the Department of its intent to participate in the Succeed Scholarship Program.

5.01.1 The notice shall specify the grade levels and services that the private school has available for severely disabled students who are participating in the program.

5.01.2 The notice shall contain a complete description of the private school's disciplinary procedures, code(s) of conduct, and parental involvement requirements.

5.01.2.1 The Department shall maintain a record of the descriptions under Section 5.01.2 and make the record available on the Department's website.

5.02 The Department shall approve a private school as eligible to participate in the program if the private school:

5.02.1 ~~Meets the accreditation requirements set by~~ Complies with one of the following:

5.02.1.1 ~~The State Board of Education~~ Meets the accreditation requirements set by;

5.02.1.1.1 The State Board of Education;

5.02.1.1.2 The Arkansas Nonpublic School Accrediting Association or its successor; or

5.02.1.1.3 Another accrediting association recognized by the State Board of Education as providing services to severely disabled individuals; or

5.02.1.2 ~~The Arkansas Nonpublic School Accrediting Association or its successor; or~~ Is an associate member of or has applied for accreditation by the Arkansas Nonpublic School Accrediting Association or its successor or another accrediting association recognized by the State Board of Education as providing services to severely disabled individuals.

5.02.1.3 ~~Another accrediting association recognized by the State Board of Education as providing services to severely disabled individuals. A private school shall no longer be eligible if:~~

5.02.1.3.1 The private school has not received accreditation within four (4) years of becoming eligible under Section 5.02.1.2;

5.02.1.3.2 The accrediting association determines that the private school is ineligible or unable to continue the accreditation process; or

5.02.1.3.3 It becomes impossible for the private school to obtain accreditation within four (4) years of becoming eligible under Section 5.02.1.2.

~~5.02.1.4 The Arkansas Nonpublic School Accrediting Association and any other accrediting association(s) recognized by the State Board of Education under Section 5.02.1.3 shall submit to the Department, on an annual basis, a complete list of private schools currently accredited under the authority of its association.~~

- 5.02.1.54 ~~The Arkansas Nonpublic School Accrediting Association and any other accrediting association(s) recognized by the State Board of Education under Section 5.02.1.3. A participating private school shall notify the Department of loss of accreditation of any private school accredited under the authority of its association or any action making the school ineligible pursuant to 5.02.1.3 within thirty (30) days of the loss of accreditation.~~
- 5.02.2 Demonstrates fiscal soundness by having been in operation for one (1) school year or providing the Department with a statement by a certified public accountant confirming that:
- 5.02.2.1 The private school is insured; and
 - 5.02.2.2 The private school has sufficient capital or credit to operate in the upcoming school year.
 - 5.02.2.3 In lieu of a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the Department.
- 5.02.3 Complies with the antidiscrimination provisions of 42 U.S.C. § 2000d;
- 5.02.4 Meets state and local health and safety requirements and maintains an environment in which the health, safety, and welfare of students is not threatened;
- 5.02.5 Is academically accountable to the parent or legal guardian for meeting the educational needs of students;
- 5.02.6 Employs or contracts with only teachers who hold baccalaureate or higher degrees;
- 5.02.7 Employs or contracts with at least one (1) teacher who holds a current, valid standard license in special education issued by the State Board of Education as evidenced by a copy of the license and contract, if applicable;
- 5.02.7.1 If, at any point following approval under Section 5.02, an eligible private school no longer employs or contracts with at least one (1) teacher who holds a current, valid standard license in special education, the private school shall notify the parent(s) or legal guardian(s) of any student(s) participating in the program enrolled in or regularly

attending the private school and the Department of Education within five (5) days.

- 5.02.7.2 ~~If, at any point following approval under Section 5.02, an eligible private school no longer employs or contracts with at least one (1) teacher who holds a current, valid standard license in special education, the private school shall notify the State Board of Education or the State Board of Education's designee within twenty (20) days~~ If the eligible private school is unable to employ or contract with a new teacher who holds a current, valid standard license in special education within thirty (30) days following the notice required by Section 5.02.7.1, the private school shall no longer be eligible for participation in the program and shall immediately notify the Department.
- 5.02.8 Complies with all state laws and rules governing private schools; and
- 5.02.9 Adheres to the tenets of its published disciplinary procedures before an expulsion of a student participating in the program.
- 5.03 The Department shall maintain a list of private schools eligible to participate in the program and make the list available on the Department's website.
- 5.04 An eligible private school shall administer annually or make provisions for a student participating in the program to take a nationally recognized, norm-referenced test as established by the State Board of Education.
- 5.04.1 A student with an individualized education program that provides for an exemption to standardized testing is not required to take the test required under Section 5.04.
- 5.04.2 An eligible private school shall annually prepare a portfolio that provides information on a student's progress to the student's parent or legal guardian if a student is exempt from standardized testing as permitted under Section 5.04.1.
- 5.05 An eligible private school shall notify the ~~State Board~~ Department of Education ~~or the State Board of Education's designee~~ if any student participating in the program ceases to be enrolled in or regularly attend the private school for any reason.
- 5.06 An eligible private school shall annually complete the recertification process established by the Department annually to inform the Department of intent to maintain enrollment in a private school eligible to participate to continue participation in the program in order to continue.

5.067 The inability of a private school to meet the requirements under these Rules shall constitute a basis for the ineligibility of the private school to participate in the Succeed Scholarship Program as determined by the State Board of Education or the State Board of Education's designee.

5.078 Any instance of an owner, operator, superintendent, or principal of, or a person who has equivalent decision-making authority over, a private school participating in the Succeed Scholarship Program operating or having operated an educational institution in Arkansas or in another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public shall constitute a basis for the ineligibility of the private school to participate in the program as determined by the State Board of Education or the State Board of Education's designee.

6.00 Responsibilities of Participating Students

6.01 The parent or legal guardian of a student participating in the Succeed Scholarship Program shall:

6.01.1 Select the private school from the list of private schools eligible to participate in the program that is maintained by the Department;

6.01.2 Fully comply with the parental involvement requirements of the private school unless excused by the school for illness or other good cause;

6.01.3 Sign a waiver that releases the State of Arkansas from any legal obligation to provide services or education to the student participating in the program except for funding provided for the program under these Rules;

6.01.4 Sign a waiver that releases the student's resident school district from any legal obligation to provide services or education to the student participating in the program while the student is not enrolled in the student's resident school district as provided under these Rules;

6.01.5 Notify the ~~State Board~~ Department of Education ~~or the State Board of Education's designee~~ if the student ceases to be enrolled in or regularly attend the private school for any reason; and

6.01.6 ~~Correspond with~~ Annually complete the recertification process established by the Department annually to inform the Department of intent to maintain enrollment in a private school eligible to participate to continue participation in the program in order to continue and the disbursement of scholarship payments.

6.02 A student participating in the program shall:

6.02.1 Attend the private school throughout the school year unless excused by the school for illness or other good cause; and

6.02.1.1 If the parent or legal guardian of a student participating in the program ~~who has ceased to be enrolled in or regularly attend the private school~~ wishes to enroll the student in another private school from the list of private schools eligible to participate in the program ~~prior to the end of the school year~~, the parent or legal guardian shall:

6.02.1.1.1 Provide proof to the Department that the student has been accepted for admission into another private school that is eligible to participate in the program; and

6.02.1.1.2 Request that the ~~State Board of Education~~ Department approve a reinstatement or transfer of the student's scholarship payments.

6.02.1.1.3 No more than one (1) such request may be made within the same school year.

6.02.2 Fully comply with the code of conduct for the private school.

6.03 The State Board of Education may terminate a scholarship if the student or the student's parent or legal guardian materially fails to comply with the responsibilities under these Rules.

7.00 Scholarship Payments – Funding

7.01 The maximum scholarship available under the Succeed Scholarship Program is the foundation funding amount for the current school year under Ark. Code Ann. § 6-20-2305.

7.02 The amount of the scholarship shall be the amount calculated under Section 7.01 or the amount of tuition and fees for the period of time the student is enrolled in the private school after the student is determined eligible for the program, whichever is less.

7.03 Scholarship payments shall be disbursed to the parent or legal guardian of a student participating in the Succeed Scholarship Program on a monthly basis by the Department or another state agency, person, firm, or corporation designated by the Department to administer and disburse funds.

7.03.1 If the Department designates a third party to administer funds, scholarship payments shall be made from the third party by individual warrant made payable to the student's parent or legal guardian, ~~and delivered by the Department to the third party, and the~~ The parent or legal guardian shall restrictively endorse the warrant to the private school of the parent's or legal guardian's choice after which the third party shall deposit the payment into the account of and the private school shall verify receipt of payment to the Department.

7.03.2 A third party designated to administer funds must maintain an effective internal control system as outlined by the Department.

~~7.04 Beginning on July 1, 2015, the Department shall prepare a budget, including cost estimates and projections so that a separate appropriation can be made for the program for the 2016-2017 school year.~~

~~7.04.1 For the 2016-2017 school year, the program shall be limited to 100 students.~~

~~7.054~~ The program shall be funded separately from the Public School Fund and other funds or appropriations designated for public schools.

~~7.065~~ The program shall not be funded with county, city, or school district tax revenues.

8.00 Rules and Duties

8.01 The State Board of Education shall adopt rules and develop notices and other documentation necessary to administer the Succeed Scholarship Program that are in the best interest of students.

8.02 The State Board of Education shall not:

8.02.1 Become a party to a contract between a participating private school and the parent or legal guardian of a student participating in the program; or

8.02.2 Make payments to the parent or legal guardian of a student after the State Board of Education is notified from either a participating school or a student's parent or legal guardian that the student is no longer enrolled in or attending a participating private school.

8.02.3 Make payments to the parent or legal guardian of a student enrolled in or attending a private school that the State Board of Education has determined is ineligible to participate in the program.

9.00 Autonomy of Participating Private Schools

- 9.01 A private school that participates in the Succeed Scholarship Program is not considered an agent or instrumentality of the State of Arkansas or a school district.
- 9.02 The curriculum and education plan for a student with a disability attending a private school is not subject to the regulatory authority of the State Board of Education.
- 9.03 As a condition of continued participation in the program, each participating private school shall:
- 9.03.1 Certify under oath, on ~~a semiannual~~ an annual basis, that any student(s) participating in the program is/are and has/have been enrolled and attending the participating private school except for excused absences; and
- 9.03.2 Certify under oath, on an annual basis, that ~~any student(s) not participating in the program is/are and has/have been enrolled and attending the participating private school except for excused absences~~ it continues to meet the eligibility criteria required in Section 5.02 for continued participation in the program.

**SUMMARY FOR DEPARTMENT OF EDUCATION
PROPOSED AMENDMENTS TO RULES GOVERNING
THE SUCCEED SCHOLARSHIP PROGRAM**

Amendments to these Rules are necessary as a result of Acts 327, 637, and 894 of 2017.

- Definitions were added for “foster care”, “foster parent”, “IEP”, and “services plan”.
- Sec. 4.01.1.1.2 was added to reflect that a resident superintendent may waive the student eligibility requirement that the student have attended public school for one year.
- Sec. 4.01.2 was amended to add eligibility for students in foster care and clarify the IEP requirement for eligibility.
- Sections 5.02.1.1 and 5.02.1.3 were added to reflect that a private school may participate in the program prior to receiving accreditation if all applicable conditions are met.
- Revisions were made to the application, transfer, funding, and recertification processes to ensure a smoother and more efficient operation of the program.