

**ARKANSAS DEPARTMENT OF EDUCATION  
RULES GOVERNING PARENTAL NOTIFICATION OF AN ASSIGNMENT  
OF A NON-LICENSED TEACHER TO TEACH A CLASS FOR MORE THAN  
THIRTY (30) CONSECUTIVE DAYS AND FOR GRANTING WAIVERS**

September 2007

1.00 REGULATORY AUTHORITY

- 1.01 These rules shall be known as the Arkansas Department of Education (ADE) Rules Governing Parental Notification of an Assignment of a Non-Licensed Teacher to Teach a Class for More Than Thirty (30) Consecutive School Days During a School Year and for Granting Waivers.
- 1.02 These rules are enacted pursuant to the authority of the State Board of Education under Ark. Code Ann. §§ 6-11-105, 6-17- 309 and 25-15-201 *et seq.*

2.00 PURPOSE

- 2.01 The purpose of these Rules is to establish the procedure whereby a school district may obtain a waiver from the Arkansas Department of Education for teachers who will be teaching outside of the grade level or subject area they are licensed to teach for more than thirty (30) consecutive school days in the same class during a school year.

3.00 DEFINITIONS – For the purpose of these rules, the following definitions shall apply:

- 3.01 **Licensed teacher** is defined as any teacher who holds a current standard, initial or provisional teaching license issued by the Arkansas Department of Education.
- 3.02 **Not licensed to teach the grade level** is defined as any teacher assigned to a grade level for which the teacher does not have the appropriate license or approval for that grade level.
- 3.03 **Not licensed to teach the subject area** is defined as any teacher assigned to teach a subject for which the teacher does not have the appropriate license or approval to teach.
- 3.04 **Teacher** is defined to mean any person employed by a school district on a full-time or part-time employment basis, that are assigned a teaching position with a class of students and for which a teaching license is required. Teacher shall also include counselors, library media specialist and school administrators.

- 3.05 **Undue Hardship** is defined as the inability of a school district to employ a qualified teacher who is licensed at the grade level or for the subject area assigned.
  - 3.06 **Waiver** is defined as an approval granted by the Arkansas Department of Education allowing a school district to employ a licensed teacher in a subject or grade level for which they are not licensed for longer than thirty consecutive days during a school year.
- 4.00 EMPLOYMENT OF TEACHERS WHO ARE NOT LICENSED TO TEACH THE GRADE LEVEL OR SUBJECT AREA OF THE CLASS ASSIGNED
- 4.01 School districts shall aggressively seek to employ teachers who are licensed and highly qualified (when required) for the grade level and subject areas assigned.
  - 4.02 When a school district cannot employ a qualified teacher licensed at the grade level or for the subject being assigned, the school district shall actively recruit a licensed teacher who will work towards becoming licensed and highly qualified (when required) for the grade level assigned or for the specific subject assigned to teach.
  - 4.03 The licensure requirements of Ark. Code Ann. § 6-17-309 (Act 1623 of 2001) shall not apply to non-degreed vocational-technical teachers and those persons approved by the Department of Education to teach the grade level or subject area of the class in the Department of Education's distance learning program.
  - 4.04 Teachers with letters of provisional eligibility (six-month or one-year) and teachers presenting other letters verifying their eligibility for a provisional, initial or standard license that are employed by a school district will be considered licensed teachers and will not require a waiver as long as they are teaching at the grade level or the specific subject for which they are licensed.
- 5.00 APPROVAL PROCEDURES AND REPORTING OF WAIVERS
- 5.01 Superintendents may apply for a waiver from the Arkansas Department of Education if the requirement imposes an undue hardship on the school district.
  - 5.02 A waiver application shall be submitted to the Assistant Commissioner for Human Resources/Licensure as soon as an undue hardship is determined by the superintendent. All applications for waivers shall be reviewed by the Arkansas Department of Education. The application shall include:

- A. A listing of all teachers including Social Security numbers, current licensure area(s), out-of-area and out of grade level teaching assignment, whether the assignment requires the teacher to be Highly Qualified or not, completed Additional Licensure Plan (ALP) and all school years, employed out-of-area, or grade level.
  - B. A justification for the waiver documenting the effort of the district to find a fully licensed and Highly Qualified teacher. Districts will not have to verify re-advertising for the second and third years for a position, as long as the teacher has made adequate yearly progress on the ALP.
  - C. The school written plan with timelines for completion of the program of study and/or specialty area assessment for becoming licensed and Highly Qualified when required.
  - D. For teachers who taught on a waiver in this subject area last year or in previous years, the district shall provide evidence of progress made by this teacher to become licensed and Highly Qualified (when required).
  - E. Districts shall apply for a waiver each year that a teacher is teaching/working out of area for a maximum of three (3) years.
  - F. The superintendent of any school district that obtains a waiver shall send written notice of the assignment of a non-licensed teacher to the parent or guardian of each student in that classroom no later than thirty (30) school days after the date of the assignment.
  - G. The superintendent is exempt from sending out parental notifications of the assignment of a non-licensed school counselor, librarian, or other individuals employed in positions requiring licensure as a building level administrator, district level administrator, or curriculum program administrator.
- 5.03 Upon approval of a waiver request, the Arkansas Department of Education shall issue a letter of waiver to the school district in care of the superintendent of the school district.
- 5.04 The final decision regarding the granting of the waiver shall rest with the Arkansas State Board of Education.