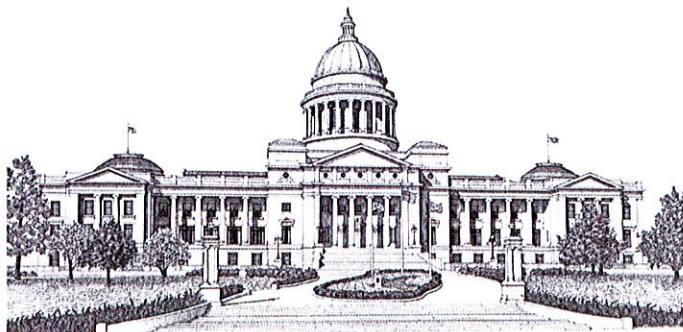


ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

Mark Martin

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Department of Education

Department Educator Effectiveness and Licensure

Contact Cheryl Reinhart E-mail cheryl.reinhart@arkansas.gov Phone (501) 683-3126

Statutory Authority for Promulgating Rules Ark. Code Ann. 6-11-105, 6-17-412, 6-17-413.

Rule Title: Eligibility and Financial Incentives for National Board for Professional Teaching Standards Candidacy and Certification

Intended Effective Date

(Check One)

☐ Emergency (ACA 25-15-204)

☒ 10 Days After Filing (ACA 25-15-204)

☐ Other _____
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

March 14-17, 2018

April 13, 2018

July 17, 2018

Dec 14, 2017

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Lori Freno

lori.freno@arkansas.gov

July 25, 2018

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)



Signature

(501) 682-4234

lori.freno@arkansas.gov

Phone Number

E-mail Address

General Counsel

Title

April July 25, 2018

Date

**Arkansas Department of Education
Rules Governing Eligibility and Financial Incentives
For National Board for Professional Teaching Standards
Effective Date: August 4, 2018**

1.00 Regulatory Authority

- 1.1 These rules shall be known as the Arkansas Department of Education Rules Governing Eligibility and Financial Incentives for National Board for Professional Teaching Standards Candidacy and Certification.
- 1.2 These rules are enacted under the State Board of Education's authority pursuant to Ark. Code Ann. §§6-11-105, 6-17-412, and 6-17-413.

2.00 Purpose

- 2.1 To improve student learning and strengthen teaching by encouraging teachers to participate in and complete NBPTS certification;
- 2.2 To authorize the Department to fund the full amount of the participation fee of the NBPTS certification;
- 2.3 To authorize the Department to fund incentive bonuses for NBCTs in Arkansas;
- 2.4 To outline the eligibility criteria and funding structure for the incentive bonuses; and
- 2.5 To outline the establishment of a support program for NBPTS participants.

3.00 Definitions

For the purposes of these rules:

- 3.1 **“Department”** means the Arkansas Department of Education;
- 3.2 **“National Board for Professional Teaching Standards”** means the independent board that certifies teachers who meet advanced standards and certifications by effectively enhancing student learning and demonstrating the high level of knowledge and skills, dispositions, and commitments reflected in the following five core propositions:
 - 3.2.1 Teachers are committed to students and their learning.
 - 3.2.2 Teachers know the subjects they teach and how to teach those subjects to students.

- 3.2.3 Teachers are responsible for managing and monitoring student learning.
- 3.2.4 Teachers think systematically about their practice and learn from experience.
- 3.2.5 Teachers are members of learning communities.
- 3.3 **“Advisory Committee”** means the ten (10) member team of three (3) National Board Certified Teachers, three (3) National Board facilitators, and four (4) educational administration or business representatives, to include one Department staff member. The Advisory Committee advises the Department on policy issues, assist in the support system, and select candidates based on relevant criteria when all candidates cannot be funded; such criteria to be established by the Advisory Committee in accordance with law and with final review and approval by the State Board.
- 3.4 **“Classroom teacher”** means a teacher who is required to hold a standard teaching license from the Department and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual’s contracted time, with that 70% allowed to include:
 - 3.4.1 Employment by an educational service cooperative when the teacher provides direct student services for a collaborative of school districts in public school buildings and other instructional settings throughout the cooperative area; and
 - 3.4.2 Instructional positions such as library/media specialist, school guidance counselor, literacy specialist, math specialist or others for whom NBPTS certificates specifically exist.
- 3.5 **“Classroom setting”**:
 - 3.5.1 For the purpose of eligibility for NBPTS candidacy funding means full-time assignment to a setting in a specific Arkansas public school building or buildings in which a teacher works directly with a student or students; and
 - 3.5.2 For the purpose of eligibility for an incentive bonus means full-time assignment to a setting in a school building(s) or other instructional settings where a NBCT is directly involved in the instructional process by teaching children, by facilitating the instructional process through work with building teachers in classrooms, or by serving in the role of building administrator, or assistant building administrator.
- 3.6 **“High-poverty charter school”** means an Arkansas open-enrollment public charter school in which seventy percent (70%) or greater of the previous school year’s enrolled students are national school lunch students as defined in § 6-20-2303.

- 3.7 **“High-poverty district”** means an Arkansas public school district in which seventy percent (70%) or greater of the previous school year’s enrolled students are national school lunch students as defined in § 6-20-2303.
- 3.8 **“High-poverty school”** means an Arkansas public school in which seventy percent (70%) or greater of the previous school year’s enrolled students are national school lunch students as defined in § 6-20-2303.
- 3.9 **“In the process of initial certification”** means that the individual has completed registration for first-time candidacy (including payment of the registration fee).
- 3.10 **“Instructional facilitator”** means an individual holding a valid Arkansas teacher’s license who facilitates continuous improvement in classroom instruction by providing instructional and professional learning support to teachers for research-based instruction and by demonstrating the alignment of instruction with curriculum standards and assessment tools.
- 3.11 **“Instructional leader”** means a building-level administrator who is responsible for evaluating teachers or instructional staff. It shall include without limitation a building-level administrator who is an evaluator as defined in A.C.A § 6-17-2803.
- 3.12 **“NBCT”** means National Board Certified Teacher.
- 3.13 **“NBPTS Candidacy”** means an applicant’s participation in the NBPTS program for becoming a certified teacher under these rules;
- 3.14 **“Public School”** means a school serving students in any of grades K-12 that is assigned a local education agency (LEA) number by the ADE.
- 3.15 **“State Board”** means the Arkansas State Board of Education.

4.00 Selection Process for Payment for NBPTS Candidacy

- 4.1 Application criteria:
 - 4.1.1 An applicant shall complete the official application process established by the Department;
 - 4.1.2 An applicant shall not have received prior state funding for NBPTS candidacy;
 - 4.1.3 An Applicant shall verify at least three (3) years teaching experience in an Arkansas public school beginning no earlier than the year in which the applicant’s first license to teach in an Arkansas public school is issued; and

- 4.1.4 An applicant shall provide evidence that the applicant has taught in an area that correlates to an available and suitable National Board certificate area.
- 4.2 Selection process:
 - 4.2.1 A candidate shall meet or exceed the cut score for the application process, recommended by the Advisory Committee and set by the State Board.
 - 4.2.2 NBPTS Advisory Committee will review applications and recommend to the Department an appropriate selection of candidates to be funded.
- 4.3 Payment of component costs for NBPTS Candidacy:
 - 4.3.1 The Department shall pay the following costs associated with NBPTS candidacy for candidates selected for participation under these rules:
 - 4.3.1.1 The cost of submission for the four (4) components, excluding: (a) the application fee assessed by the National Board, (b) retake fees, and (c) renewal fees; and
 - 4.3.1.2 Substitute teacher pay for up to three (3) days of approved paid leave.
- 4.4 A candidate who pays for the cost of the first certification component may apply to the Department for reimbursement of that cost and for state support of the remaining certification components if the Department receives the application within sixty (60) days after the candidate passes the submitted component. The Advisory Committee shall review the application and make a recommendation to the State Board for funding.
- 4.5 Repayment of funding:
 - 4.5.1 Repayment of state funds for the NBPTS is required if a recipient:
 - 4.5.1.1 Does not complete the certification process within three (3) years after the NBPTS enters the candidate into its certification program; or
 - 4.5.1.2 Becomes a NBCT with the support of state funds, but for the three-year period following certification that includes the year of certification and the two years immediately following certification, does not teach in an Arkansas public school classroom or does not serve as a building-level administrator, a building-level assistant, an instructional facilitator, or instructional leader, as applicable.
 - 4.5.2 A candidate required to repay funds under this section may seek a waiver of repayment from the State Board if the candidate was forced to withdraw from candidacy due to:

- 4.5.2.1 The death or disability of the teacher, or
- 4.5.2.2 Other serious extenuating circumstances approved by the Advisory Committee, including without limitation health related problems verified by a licensed physician.

4.6 The State Board may suspend a recipient's teaching license for failure to repay state funds provided under these rules. The teaching license may be reinstated upon full payment as provided in the ADE Rules Governing Educator Licensure.

5.00 Payment of Incentive Bonuses

5.1 For a NBCT who began the process of initial certification or was certified or recertified before January 1, 2018:

5.1.1 The Department shall pay a yearly incentive bonus to a classroom teacher, building-level principal, or building-level assistant principal who is selected to participate in the NBPTS program under these rules and who at the time of receiving the bonus:

- 5.1.1.1 Is employed full time as a classroom teacher, building-level principal, or building-level assistant principal in an Arkansas public school;
- 5.1.1.2 Is a NBCT certified on or after August 1, 2009, and who after working a minimum of three (3) years with National Board certification as a classroom teacher or as a building-level administrator or building-level assistant administrator in an Arkansas public school district is employed full time as a teacher in an accredited teacher preparation program at a state-sponsored institution of higher education;
- 5.1.1.3 Is a NBCT and who moves into the state on or before January 1, 2017, and is employed full time as a classroom teacher, building-level principal, or building-level assistant principal in an Arkansas public school; or
- 5.1.1.4 Is a NBCT certified on or after August 1, 2009, who moves into the state on or before January 1, 2017, and after working a minimum of three (3) years with National Board certification as a classroom teacher or as a building-level administrator or building-level assistant administrator in an Arkansas public school district is employed full time as a teacher in an accredited teacher preparation program at a state-sponsored institution of higher education.

- 5.1.2 A NBCT who meets the qualifications of Section 5.1 and is working full-time in a school, including an open enrollment public charter school, that is not a high-poverty school or a high-poverty charter school shall receive a yearly incentive bonus of five thousand dollars (\$5,000) for the length of the certification or the recertification, but for no more than ten (10) school years.
- 5.1.3 A NBCT who meets the qualifications of Section 5.1 and is working full-time in a school that is a high-poverty school that is not in a high-poverty school district shall receive a yearly incentive bonus of five thousand dollars (\$5,000) for the length of the certification or the recertification, but for no more than ten (10) school years.
- 5.1.4 A person who meets the qualifications of Section 5.1 and is working full-time in a school that is a high-poverty school in a high-poverty district or is a high-poverty charter school shall receive a yearly incentive bonus of ten thousand dollars (\$10,000) for the length of the certification or the recertification, but for no more than ten (10) school years.
- 5.2 For a NBCT who began the certification process AND was certified **after** January 1, 2018, the Department shall pay a yearly incentive bonus to a classroom teacher, an instructional facilitator, or an instructional leader as follows:
 - 5.2.1 A NBCT who meets the qualifications of Section 5.2 and is working full-time in a school, including an open enrollment public charter school, that is not a high-poverty school or a high-poverty charter school shall receive a yearly incentive bonus of two thousand five hundred dollars (\$2,500) for no more than five (5) school years.
 - 5.2.2 A NBCT who meets the qualifications of Section 5.2 and is working full-time in a school that is a high-poverty school that is not in a high-poverty school district shall receive a yearly incentive bonus of five thousand dollars (\$5,000) for no more than five (5) school years.
 - 5.2.3 A person who meets the qualifications of Section 5.2 and is working full-time in a school that is a high-poverty school in a high-poverty district or is a high-poverty charter school shall receive a yearly incentive bonus of ten thousand dollars (\$10,000) for no more than ten (10) school years.
- 5.3 Bonuses shall be paid by June 1 of each year.
- 5.4 A person shall not receive in the same school year more than one (1) yearly incentive bonus under Section 5.2; and
- 5.5 A person shall not receive in the same school year both a bonus under Sections 5.1 and 5.2.
 - 5.5.1 A person who, as of December 1, 2017, meets the qualifications for a yearly incentive bonus under both Sections 5.1 and 5.2 may make an irrevocable

election to receive future yearly incentive bonuses under Section 5.2 by filing a written election with the department no later than July 1, 2019.

- 5.6 The Department shall not pay an incentive bonus or any increase in an incentive bonus retroactively.
- 5.7 The Department shall cease paying an incentive bonus to a person who:
 - 5.7.1 Has received an incentive bonus for ten (10) school years;
 - 5.7.2 Leaves the full-time employment of an Arkansas public school district;
 - 5.7.3 Becomes employed as a district-level central office administrator;
 - 5.7.4 Is employed by an Arkansas institution of higher education and does not teach in an accredited teacher preparation program; or
 - 5.7.5 Is employed by an education service cooperative and does not teach in a classroom with students.
- 5.8 A person shall not receive a bonus under multiple sections of these rules in the same school year.
- 5.9 A traveling teacher who is eligible for a bonus under these rules shall receive the bonus for the school that the teacher's contract identifies as the teacher's home base.

6.00 Support Program for Teachers Selected to Participate in NBPTS Candidacy

- 6.1 The State Board will establish a support program for teachers selected to participate in the NBPTS Program that provides technical assistance to program applicants to ensure successful program completion, which may include without limitation:
 - 6.1.1 Establishing a variety of support opportunities such as annual pre-candidacy orientations, regular meetings of participants, telephone/email contact with facilitators and NBCTs, and Department intervention with NBPTS if necessary;
 - 6.1.2 Providing information on the NBPTS state support program on the Department web site;
 - 6.1.3 Providing other assistance, if determined to be necessary by the Department.
- 6.2 Credit for professional development may be obtained pursuant to school district policy.

7.00 Monitoring for NBPTS Program Participation

- 7.1 The public school that employs a NBCT shall verify to the Department annually the employment status of that teacher for each year in which the NBCT is eligible for an incentive bonus.

8.00 Funding Limitations

- 8.1 Provisions of these rules and Ark. Code Ann. §§6-17-412 and 6-17-413 apply only to the extent that funds are appropriated and available to the Department to pay for these purposes.
 - 8.2 Funding under Sections 5.1.1.2 and 5.1.1.4. shall be paid only if funds are available after funding all eligible candidates under Sections 5.1.1.1 and 5.1.1.3.
-

Chart 1. Bonuses (through 2030)


**NBCT YEAR OF BONUS
(Act 937 of 2017)**

Effective 8/1/2017

LEGEND:

CT: Classroom Teacher
BLP: Building Level Principal
BLAP: Building Level Asst Principal
IF: Instructional Facilitator

IL: Instructional Leader
HPS: High Poverty School
HPCS: High Poverty Charter School
HPD: High Poverty District

	YEAR OF CERTIFICATION OR RENEWAL	FOR PUBLIC SCHOOL EMPLOYMENT (NOT HPS, HPCS, OR HPS IN A HPD, or by election filed with ADE)			FOR HPS EMPLOYMENT (as CT, IF, IL, BLP, and BLAP)			FOR HPS IN A HPD EMPLOYMENT (as CT, IF, IL only)			FOR HPCS EMPLOYMENT (as CT, IF, IL only)		
		BONUS AMOUNT	MAX. # OF YRS	FINAL BONUS YR	BONUS AMOUNT	MAX. # OF YRS	FINAL BONUS YR	BONUS AMOUNT	MAX. # OF YRS	FINAL BONUS YR	BONUS AMOUNT	MAX. # OF YRS	FINAL BONUS YR
BEFORE 1/1/2018*: Certified, renewed, OR began the initial certification process OR BEFORE 1/1/2017*: Moved to AR as NBCT	On or < 2007	\$ 5,000	10	2017		***			***			***	
	2008	\$ 5,000	10	2018	(Same as Public School Employment Column)			\$ 10,000	10	2018	\$ 10,000	10	2018
	2009	\$ 5,000	10	2019				\$ 10,000	10	2019	\$ 10,000	10	2019
	2010	\$ 5,000	10	2020				\$ 10,000	10	2020	\$ 10,000	10	2020
	2011	\$ 5,000	10	2021				\$ 10,000	10	2021	\$ 10,000	10	2021
	2012	\$ 5,000	10	2022				\$ 10,000	10	2022	\$ 10,000	10	2022
	2013	\$ 5,000	10	2023				\$ 10,000	10	2023	\$ 10,000	10	2023
	2014	\$ 5,000	10	2024				\$ 10,000	10	2024	\$ 10,000	10	2024
	2015	\$ 5,000	10	2025				\$ 10,000	10	2025	\$ 10,000	10	2025
	2016	\$ 5,000	10	2026				\$ 10,000	10	2026	\$ 10,000	10	2026
	2017	\$ 5,000	10	2027				\$ 10,000	10	2027	\$ 10,000	10	2027
	2018	\$ 5,000	10	2028				\$ 10,000	10	2028	\$ 10,000	10	2028
	2019	\$ 5,000	10	2029				\$ 10,000	10	2029	\$ 10,000	10	2029
ON/AFTER 1/1/2018**: Began the initial certification process AND received certification (includes NBCT who moves to AR)	2019	\$ 2,500	5	2024	\$ 5,000	5	2024	\$ 10,000	10	2029	\$ 10,000	10	2029
	2020	\$ 2,500	5	2025	\$ 5,000	5	2025	\$ 10,000	10	2030	\$ 10,000	10	2030
	2021	\$ 2,500	5	2026	\$ 5,000	5	2026	\$ 10,000	10	2031	\$ 10,000	10	2031
	2022	\$ 2,500	5	2027	\$ 5,000	5	2027	\$ 10,000	10	2032	\$ 10,000	10	2032
	2023	\$ 2,500	5	2028	\$ 5,000	5	2028	\$ 10,000	10	2033	\$ 10,000	10	2033
	2024	\$ 2,500	5	2029	\$ 5,000	5	2029	\$ 10,000	10	2034	\$ 10,000	10	2034
	2025	\$ 2,500	5	2030	\$ 5,000	5	2030	\$ 10,000	10	2035	\$ 10,000	10	2035
	2026	\$ 2,500	5	2031	\$ 5,000	5	2031	\$ 10,000	10	2036	\$ 10,000	10	2036
	2027	\$ 2,500	5	2032	\$ 5,000	5	2032	\$ 10,000	10	2037	\$ 10,000	10	2037
	2028	\$ 2,500	5	2033	\$ 5,000	5	2033	\$ 10,000	10	2038	\$ 10,000	10	2038
	2029	\$ 2,500	5	2034	\$ 5,000	5	2034	\$ 10,000	10	2039	\$ 10,000	10	2039
	2030	\$ 2,500	5	2035	\$ 5,000	5	2035	\$ 10,000	10	2040	\$ 10,000	10	2040

* ACA 6-17-413(a)

** ACA 6-17-413(e)-(f)

YRS SHOWN IS CUMULATIVE FROM DATE OF CERTIFICATION (10 yrs is max.)

Draft 9.11.2017

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Education

DIVISION Educator Effectiveness and Licensure

PERSON COMPLETING THIS STATEMENT Lori Freno, General Counsel

TELEPHONE 501-682-4234 **FAX** None **EMAIL:** lori.freno@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 Eligibility and Financial Incentives for National Board for Professional Teaching Standards Candidacy and Certification

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	<u>N/A</u>
Federal Funds	<u></u>
Cash Funds	<u></u>
Special Revenue	<u></u>
Other (Identify)	<u></u>
Total	<u>N/A</u>

General Revenue	<u>N/A</u>
Federal Funds	<u></u>
Cash Funds	<u></u>
Special Revenue	<u></u>
Other (Identify)	<u></u>
Total	<u>N/A</u>

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

Current Fiscal Year

General Revenue	<u>Unknown (see explanation below)</u>
Federal Funds	<u></u>
Cash Funds	<u></u>
Special Revenue	<u></u>
Other (Identify)	<u></u>
Total	<u>Unknown</u>

Next Fiscal Year

General Revenue	<u>Unknown (see explanation below)</u>
Federal Funds	<u></u>
Cash Funds	<u></u>
Special Revenue	<u></u>
Other (Identify)	<u></u>
Total	<u>Unknown</u>

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

\$ Zero

Next Fiscal Year

\$ Zero

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

\$
Zero

Next Fiscal Year

\$

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.

NOTE: It is difficult to assess the fiscal impact of this amendment because the bonuses have been restructured.

- Some National Board Certified Teachers (NBCTs) who are at the end of their 10 year (certification or recertification) will no longer receive their \$5,000 annual bonus
- Some NBCTs will receive a \$5,000 bonus through the end of their 10 years (although if they move to a high-poverty school in a high-poverty district or a high-poverty charter school, they may receive the \$10,000 bonus to the end of their 10 years).
- New NBCTs will come under the new structure for:
 1. \$2,500 for five years if they are in a school that is NOT a high-poverty school or high-poverty charter school;

2. \$5,000 for five years if they are in a high-poverty school (that is not in a high-poverty district); or
3. \$10,000 for ten years if they are in a high-poverty school in a high-poverty district or high-poverty charter school.