

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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Little Rock, Arkansas 72201-1094
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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

**DIVISION OF ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES AND
TRANSPORTATION RULE GOVERNING THE TRANSPORTATION
MODERNIZATION GRANT PROGRAM**

Effective date:

1.00 PURPOSE AND AUTHORITY

1.01 This rule is promulgated under the authority granted to the Commission for Public School Academic Facilities and Transportation in Arkansas Code § 6-21-114 for the purpose of implementing the Transportation Modernization Grant Program created by Arkansas Code § 6-20-2701 et seq.

2.00 DEFINITIONS

2.01 “Rural” or “remote” means a United State Census-defined rural territory that is more than 25 miles from a city or town with a population of 50,000 or more and also more than 10 miles from cities or towns with a population of at least 2,500 and less than 50,000.

3.00 TRANSPORTATION MODERNIZATION GRANTS

3.01 There is established the Transportation Modernization Grant Program for:

3.01.1 Public school districts;

3.01.2 Open-enrollment public charter schools;

3.01.3 Early childhood care and education programs or their local early childhood coordinators;

3.01.4 Cities;

3.01.5 Towns;

3.01.6 Counties;

3.01.7 Education service cooperatives;

3.01.8 Non-profit organizations; and

3.01.9 Other entities deemed eligible by Division of Public School Academic Facilities and Transportation or the Division of Elementary and Secondary Education.

3.02 Any one or any combination of the entities under section 3.01 may apply for a grant under this rule.

3.03 Entities interested in participating in the Transportation Modernization Grant Program shall complete an application developed by the division explaining how the grant applicant would use grant moneys to:

3.03.1 Improve access to transportation for students attending a public school district, an open-enrollment public charter school, or a licensed childcare center serving publicly funded students; and

3.03.2 Support transportation innovations and efficiency solutions;

3.04 The division shall rank applications for funding based on:

3.04.1 Cost effectiveness;

3.04.2 Student safety;

3.04.3 Innovativeness of proposed solution; and

3.04.4 Need and demand of the applicant;

3.05 At least twenty-five percent (25%) of grants under this subchapter shall be awarded to support rural and remote public school districts.

3.05.1 However, section 3.05 shall not apply if an insufficient number of proposals from qualified rural and remote public school districts is submitted.

3.06 Grants under this rule shall be used to support appropriately insured improvements that increase access to transportation for students or support transportation innovations and efficiency solutions, including without limitation:

3.06.1 Transportation resource sharing with neighboring public school districts or open-enrollment public charter schools;

3.06.2 Developing or contracting with rideshare programs or engaging neighborhood carpool strategies;

3.06.3 Developing options for reducing costs and improving efficiencies, including without limitation exploring the use of fleet vehicles or using technology to lead to more efficient routing;

3.06.4 Developing options to address personnel shortages or challenges;

3.06.5 Funding in lieu of grants given to parents;

3.06.5.1 A public school district or open-enrollment public charter school that uses funding in lieu of grants given to parents under this section shall give priority to enrolled students who:

3.06.5.1.a Meet the economic eligibility requirements established under the Child Nutrition Act of 1966, 42 U.S.C. § 1771 et seq., as in effect on January 1, 2023, and National School Lunch Act, 42 U.S.C. § 1751, as in effect on January 1, 2023, for free or reduced-price lunches; and

3.05.6.1.b Are attending a public school district or an open-enrollment public charter school through open enrollment, if such information is available.

3.06.5.2 A student who attends a school participating in a community eligibility program is eligible for priority under section 3.06.5.1;

3.06.6 Partnering with school districts and open-enrollment public charter schools and licensed childcare facilities that accept publicly funded students to reevaluate bus routes to decrease ride time for students, with a priority on routes serving elementary and middle school grades;

3.06.7 Developing collaborations with public schools, early childhood care and education programs, and community partners to identify solutions to ensure students' safe and effective passage to school and early childhood care and education programs; and

3.06.8 Reducing chronic student absenteeism;

3.07 Funding under this rule is contingent on compliance with applicable Department of Education rules and Arkansas and federal law.

5.00 REPORTING REQUIREMENTS

5.01 A recipient of a grant under this rule shall monitor a program that is funded by a grant for program efficacy.

5.02 A recipient of a grant under this rule shall report data collected by program monitoring to the Division of Public School Academic Facilities and Transportation, including without limitation:

5.02.1 Number of students served;

5.02.2 Geographic distance covered;

5.02.3 Use of grant funds;

5.02.3 Stakeholder involvement; and

5.02.4 Funds expended per student served.

5.03 The division shall submit an annual report by June 30 to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of State, including without limitation:

5.03.1 Best practices used by grant recipients to transport students to public school districts, open-enrollment public charter schools, or licensed childcare centers serving publicly funded students who are located outside of traditional attendance boundaries;

5.03.2 A list of the grant recipients and the amounts and purposes of the grants; and

5.03.3 The number of children impacted per grant recipient.

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT _____
BOARD/COMMISSION _____
BOARD/COMMISSION DIRECTOR _____
CONTACT PERSON _____
ADDRESS _____
PHONE NO. _____ EMAIL _____
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? _____
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? _____

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

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 no, please explain:

(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 reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

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 _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

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

Total _____

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

Current Fiscal Year

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

Total _____

Next Fiscal Year

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

Total _____

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

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or 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

\$ _____

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.



Division of Elementary and Secondary Education

Transforming Arkansas to lead the nation in student-focused education

Jacob Oliva
Secretary

February 28, 2024

Stacy Smith
Deputy
Commissioner

Proposed Rule Governing the Transportation Modernization Grant Program

**State Board of
Education**

PURPOSE

The Division of Arkansas Public School Academic Facilities and Transportation is seeking the Governor's review of a proposed Rule Governing the Transportation Modernization Grant Program.

Dr. Sarah Moore
Stuttgart
Chair

BACKGROUND

Pursuant to Act 237 of 2023, the Division is charged with promulgating rules regarding the Transportation Modernization Grant Program, which is codified at Arkansas Code § 6-20-2701 et seq.

Kathy Rollins
Springdale
Vice-Chair

KEY POINTS

- Provides definition of rural and remote schools, for which 25% of the grants awarded under the program must be provided.
- Establishes a priority schedule for awarding grants.
- Establishes reporting requirements for grant recipients.

Steve Sutton
Marion

Adrienne Woods
Rogers

DISCUSSION

Randy Henderson
Blytheville

Act 237 of 2023 created the Transportation Modernization Program to provide more efficient transportation to public school students. This rule implements the program, including clarifying priority for rural and remote schools and establishing reporting requirements for grant recipients.

Lisa Hunter
White Hall

This rule defines rural and remote school districts, sets out a priority schedule for awarding grants and establishes reporting requirements for grant recipients.

Jeff Wood
Little Rock

RECOMMENDATION

The Division of Arkansas Public School Academic Facilities and Transportation recommends Governor's Office approval of this rule.

Ken Bragg
Sheridan

Leigh Keener
Little Rock

Notice of Rulemaking

Pursuant to Arkansas Code Annotated § 25-15-201 et seq., notice is hereby given that the Commission for Arkansas Public School Academic Facilities and Transportation is considering new administrative rules. A public comment hearing will be held for the following rules: Rule Governing The Academic Facilities Distress Program; Rule Governing The Transportation Modernization Grant Program; Rule Governing The Academic Facilities Partnership Program. The hearing will be held May 24, 2024, at 10:00 a.m. at the Arkansas Department of Education, Arch Ford Building, Four Capitol Mall, Little Rock, AR, 72201. The public comment period for these rules ends on June 6, 2024. Written comments regarding these proposed rules may be mailed to ADE Legal Services, Four Capitol Mall, Room 302A, Little Rock, AR, 72201. Comments may be emailed to ADE.RulesComments@ade.arkansas.gov. A copy of the proposed rules can be found on the Division of Higher Education's website at: <https://dese.ade.arkansas.gov/Offices/legal/rules/pending>. Copies also may be obtained by contacting ADE's Office of Legal Services at the above address, via phone at (501) 683-1390, or via email at legal@ade.arkansas.gov.

FW: Notice of Rulemaking

Stephen Reynolds (ADE) <Stephen.Reynolds@ade.arkansas.gov>

Wed 5/1/2024 8:39 AM

To: LaBria Brown (ADE) <LaBria.Brown@ade.arkansas.gov>

Stephen M. Reynolds
Attorney Specialist
Arkansas Department of Education

From: Legal Ads <legalads@arkansasonline.com>
Sent: Tuesday, April 30, 2024 5:39 PM
To: Stephen Reynolds (ADE) <Stephen.Reynolds@ade.arkansas.gov>
Subject: Re: Notice of Rulemaking

Caution: This is an external email and may contain a suspicious subject or content. Please take care when clicking links or opening attachments. When in doubt, contact [ADE IT Services](#).

Will run Fri 5/3, Sat 5/4, and Sun 5/5.

Thank you.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Stephen Reynolds, ADE" <Stephen.Reynolds@ade.arkansas.gov>
To: "legalads" <legalads@arkansasonline.com>
Cc: "LaBria Brown, ADE" <LaBria.Brown@ade.arkansas.gov>
Sent: Tuesday, April 30, 2024 2:38:54 PM
Subject: RE: Notice of Rulemaking

Please disregard the previous document and use this one instead. Thanks.

Stephen M. Reynolds
Attorney Specialist
Arkansas Department of Education

From: Stephen Reynolds (ADE)
Sent: Tuesday, April 30, 2024 2:37 PM
To: legalads@arkansasonline.com
Cc: LaBria Brown (ADE) <LaBria.Brown@ade.arkansas.gov>
Subject: Notice of Rulemaking

Good afternoon,

Please find attached a notice of rulemaking for several Commission for Arkansas Public School Academic Facilities and Transportation administrative rules and confirm receipt. Please run for three consecutive days, from Friday, May 3, 2024, through Sunday, May 5, 2024. Let me know if you have any questions.

Thanks,

Stephen M. Reynolds
Associate Legal Counsel
Arkansas Department of Education
4 Capitol Mall, Suite 302
Little Rock, Arkansas 72201
Office: (501) 682-4899

Confidentiality Notice: This email may contain confidential information. If you are not the intended recipient, please disregard and delete the email.