

**ARKANSAS DEPARTMENT OF EDUCATION**  
**RULES GOVERNING EDUCATION SERVICE COOPERATIVES**  
**March 2016**

**1.00 REGULATORY AUTHORITY**

- 1.1 These rules shall be known as the Arkansas Department of Education Rules Governing Education Service Cooperatives.
- 1.2 The State Board of Education enacted these rules pursuant to its authority as set forth in Ark. Code Ann. §§ 6-11-105, 6-13-1001 et seq., 25-15-201 et seq., and Act 846 of 2015.

**2.00 DEFINITIONS**

- 2.1 “Capital Outlay Expenditures” means land, land improvements, buildings, infrastructure and equipment having a unit value of \$1,000 or more and a life expectancy of more than one year.
- 2.2 “Declining Balance” means the current year expenditures exceeding current year revenues.
- 2.3 “Education Service Cooperative” means intermediate service units in the state’s elementary and secondary education system established by the State Board of Education pursuant to Ark. Code Ann. § 6-13-1001 et seq.
- 2.4 “Fiscal integrity” means the education service cooperative’s ability to comply completely, accurately, and timely with financial management, accounting, auditing, and reporting procedures required by state or federal law and regulations.
- 2.5 “Material” means that the act, omission, or violation jeopardizes the fiscal integrity of the education service cooperative.

Source: Ark. Code Ann. § 6-13-1027

### **3.00 BOARD OF DIRECTORS**

- 3.1 Each education service cooperative shall be governed by a board of directors consisting of one (1) representative appointed by each school district board of directors within the boundary of the education service cooperative.
- 3.2 No school district may have official representation on more than one (1) education service cooperative board of directors.
- 3.3 The board of directors of each established education service cooperative shall function as a public corporate body, shall meet, except as otherwise provided in Ark. Code Ann. § 6-13-1007 and Section 8.00 of these rules, at least eight (8) times each year, and shall exercise general fiduciary responsibilities for the education service cooperative with regard to policies and practices which guard the integrity of the agency and maintain public trust in its operation.
- 3.4 Such responsibilities, consistent with funds available, shall include, but not be limited to:
  - 3.4.1 Employment of a director of the education service cooperative who shall serve as the nonvoting executive officer of the board of directors;
  - 3.4.2 Establishment of policies and procedures for the operation and management of the education service cooperative which shall be in written form and shall be filed with the State Board of Education;
  - 3.4.3 Preparation of an annual budget estimating income and expenditures for programs and services in accordance with procedures established by the state board;
  - 3.4.4 Receipt and expenditure of funds needed to provide programs and services in the area;
  - 3.4.5 Making such surveys or other inquiries which may be required to determine the service needs of school districts in the education service cooperative and developing plans to provide such needed services;
  - 3.4.6 Employment, upon the recommendations of the director of the education service cooperative, of such personnel as may be required to provide the services requested by the school districts in the area;

- 3.4.7 Implementation of policies established by the state board for the operation of education service cooperatives;
- 3.4.8 Cooperation with other education service cooperatives, school districts, and other agencies to provide programs and services for children and adults residing within their respective areas;
- 3.4.9 Renting, leasing, purchasing, constructing, or receiving by gift such facilities and buildings as may be required to provide authorized programs and services; and
- 3.4.10 Carrying out such other duties as may be required for the efficient operation of the education service cooperative for which the board of directors is responsible.

Source: Ark. Code Ann. § 6-13-1006

#### **4.00 MULTICOUNTY EDUCATION SERVICE COOPERATIVES - ESTABLISHMENT**

- 4.1 The State Board of Education is authorized to establish a statewide system of not more than fifteen (15) multicounty education service cooperatives of school districts. Such education service cooperatives shall be intermediate service units in the state's elementary and secondary education system and as such shall be eligible to receive and expend funds from state and federal governments, school districts, and other public or private sources.
- 4.2 Education service cooperatives established by Title 6, Chapter 13, Subchapter 10 of the Arkansas Code will provide to school districts which choose to use them assistance in:
  - 4.2.1 Meeting or exceeding accreditation standards and equalizing educational opportunities;
  - 4.2.2 Using educational resources more effectively through cooperation among school districts; and
  - 4.2.3 Promoting coordination between school districts and the Department of Education in order to provide services which are consistent with the needs

identified by school districts and the educational priorities of the state as established by the General Assembly or the State Board of Education.

Source: Ark. Code Ann. § 6-13-1002

## **5.00 BOUNDARIES AND ADJUSTMENTS**

- 5.1 The State Board of Education shall establish tentative boundaries for the system of education service cooperatives authorized by Title 6, Chapter 13, Subchapter 10 of the Arkansas Code.
- 5.2 These education service cooperatives shall be established so that:
  - 5.2.1 They include at least three (3) but no more than nine (9) counties;
  - 5.2.2 They include at least ten (10) but no more than thirty-five (35) school districts;
  - 5.2.3 They include at least twenty thousand (20,000) pupils in kindergarten through grade twelve (K-12) average daily membership;
  - 5.2.4 They include at least one (1) postsecondary education institution; and
  - 5.2.5 There is no more than fifty (50) miles distance or approximately one (1) hour driving time to the area's main offices for ninety percent (90%) of the school districts.
- 5.3 The State Board of Education may make adjustments in the boundaries when criteria such as minimum average daily membership and maximum driving distances conflict. However, no more than four (4) of the areas formed may contain fewer than twenty thousand (20,000) students. In no case shall any education service cooperative be established with fewer than twelve thousand (12,000) pupils.

Source: Ark. Code Ann. § 6-13-1003

## **6.00 REQUESTS FOR ESTABLISHMENT**

- 6.1 Education service cooperatives shall be established when seventy-five percent (75%) of the school districts in a proposed education service cooperative area

request such action by formal resolutions filed by the school district boards of directors with the Commissioner of Education.

- 6.2 Each resolution shall, in addition to requesting establishment of an education service cooperative, indicate by name or position that school district's representative on the board of directors of the proposed education service cooperative.
- 6.3 Requests must be filed by seventy-five percent (75%) of the school district boards of directors by May 1 if an education service cooperative is to be established for the following school year.

Source: Ark. Code Ann. § 6-13-1004

## **7.00 ALTERATION OF BOUNDARIES**

- 7.1 The State Board of Education, upon the request of one (1) or more school district boards of directors, and consistent with the provisions of § 6-13-1003, may alter the boundaries of a proposed or operational education service cooperative when it determines such alteration to be in the best interest of the school districts in the education service cooperatives involved.
- 7.2 Consistent with § 6-13-1003, a member of an education service cooperative formed after January 1, 1984, under The Public School Educational Cooperative Act of 1981, § 6-13-901 et seq., may not be moved to another education service cooperative without that member's consent.

Source: Ark. Code Ann. § 6-13-1005

## **8.00 EXECUTIVE COMMITTEE**

- 8.1 In a meeting, with a majority of its members present and voting, the board of directors of an education service cooperative may elect from its membership an executive committee of seven (7), nine (9), or eleven (11) members.
- 8.2 Candidates for the executive committee, if one is formed, shall be chosen so that the school districts within the education service cooperative are equitably represented.

- 8.3 All subsequent members of the executive committee shall be elected by a majority vote of the board of directors in attendance at the annual meeting.
- 8.4 The function of the executive committee shall be to carry out those duties delegated to it by the governing board of directors, the provisions of Ark. Code Ann. § 6-13-1006 and Section 8.00 of these rules notwithstanding.
- 8.5 Terms of executive committee members shall be three (3) years except for the initial members which shall have terms assigned by lot so as to stagger terms to equalize as nearly as possible the number of members to be elected each year. Vacancies occurring after the annual meeting shall be filled by the executive committee until the next annual meeting.
- 8.6 Should an executive committee be established in any education service cooperative, it shall meet at least nine (9) times per year, and the requirements for board of directors meetings shall be reduced to three (3) times annually. The president of the board of directors shall serve as chair of the executive committee. No person, however, may serve in this position for more than two (2) consecutive years.

Source: Ark. Code Ann. § 6-13-1007

## **9.00 TEACHER CENTER AND TEACHER CENTER COMMITTEE**

- 9.1 Each education service cooperative shall establish a teacher center which will provide, consistent with funds available, curriculum development assistance, educational materials, and staff development services to teachers within the school districts in the service area.
- 9.2 A teacher center committee, composed of at least one (1) representative from the staff of each school district, shall advise the director and the governing body on the staffing, programs, and operation of the teacher center.
- 9.3 The governing body of each cooperative shall determine the initial composition of the teacher center committee to achieve a balance of elementary, middle school or junior high, and high school personnel and assure that at least one-half (1/2), but not more than two-thirds (2/3), of the members are classroom teachers.
- 9.4 All positions on the committee shall be assigned to school districts by lot.

- 9.5 Each teacher must be elected by colleagues in his or her school district, and each administrator or support person shall be appointed by the superintendent.
- 9.6 Initial terms shall be determined by lot for equal or nearly equal periods of one (1), two (2), and three (3) years.
- 9.7 Thereafter, terms shall be for three (3) years.
- 9.8 The committee shall meet at least three (3) times per year.
- 9.9 In the last meeting each year, positions represented by expiring terms shall be reassigned by lot.

Source: Ark. Code Ann. § 6-13-1008

## **10.00 OTHER NECESSARY COMMITTEES**

Each education service cooperative may establish other committees of local school personnel needed to keep its programs responsive to the schools it serves.

Source: Ark. Code Ann. § 6-13-1009

## **11.00 DIRECTOR**

- 11.1 Each education service cooperative shall be administered by a director who shall perform the following duties:
  - 11.1.1 Administer the programs and services of the education service cooperative;
  - 11.1.2 Recommend the employment of professional and nonprofessional personnel authorized by the education service cooperative's governing body;
  - 11.1.3 Prepare the budget for adoption by the education service cooperative's governing body;
  - 11.1.4 Direct expenditures of funds within the budget; and

- 11.1.5 Perform other duties as required by the education service cooperative's governing body and the policies, rules, and regulations of the State Board of Education.
- 11.2 The director of each education service cooperative shall:
  - 11.2.1 Hold an administrator's license and meet all requirements to serve as a superintendent of schools in the State of Arkansas; or
  - 11.2.2 Have an equivalent level of education and administrative experience and obtain the approval of the state board.
  - 11.2.3 The governing body of any education service cooperative may enter into a contract with a director for a period not to exceed three (3) years.

Source: Ark. Code Ann. § 6-13-1010

## **12.00 PERSONNEL**

- 12.1 Personnel of education service cooperatives shall be employed in accordance with laws, rules, regulations, and procedures applicable to the school districts of this state.
- 12.2 In lieu of a salary schedule, an education service cooperative annually may submit to the Department of Education a complete listing of all employees of the education service cooperative and each employee's position, salary, and benefits.
- 12.3 Licensure requirements shall be the same as those expected of persons holding similar positions in local school districts.
- 12.4 Termination or contract nonrenewal of education service cooperative personnel shall be as provided by law for the school district personnel.

Source: Ark. Code Ann. § 6-13-1011

### **13.00 PERSONNEL FROM THE DEPARTMENT OF EDUCATION**

With the approval of an education service cooperative's governing body, the assistant commissioners in the Department of Education may assign state educational agency personnel to that education service cooperative.

Source: Ark. Code Ann. § 6-13-1012

### **14.00 GENERAL POLICIES, RULES AND REGULATIONS**

- 14.1 The Board of Directors of each education service cooperative has the obligation to oversee administrative and program expenditures of the education service cooperative.
- 14.2 The Board of Directors of each education service cooperative shall operate the education service cooperative in accordance with all applicable state and federal laws and regulations.
- 14.3 Each education service cooperative shall adopt and file for approval by the Commissioner of Education guidelines for settling possible disputes between member school districts and in equity or jurisdictional matters relating to shared assets and services. The guidelines shall contain at a minimum:
  - 14.3.1 The right of any school district within the boundaries of the education service cooperative to file a complaint regarding any issue related to the programs and services of the cooperative, or regarding any obligation of the cooperative under law or these Rules;
  - 14.3.2 The right of any school district in contract with the education service cooperative under Section 19.04 to file a complaint regarding any issue related to programs and services of the cooperative for which the school district has contracted;
  - 14.3.3 The procedure by which a complaint may be filed; this procedure may impose a time limitation on the filing of complaints of no less than thirty (30) days after the act or omission complained of;
  - 14.3.4 The authority of the director of the education service cooperative to investigate the complaint and issue an initial written decision within no more than sixty (60) days of receipt of the complaint;

- 14.3.5 The right of the complaining party, or any affected school district, to appeal the initial decision to the board of directors or executive committee of the education service cooperative, as chosen by the cooperative in its guidelines; and
- 14.3.6 The responsibility of the board of directors or executive committee to grant a hearing on no less than thirty (30) days' notice, and to issue a final written decision within no more than sixty (60) days of receipt of the appeal.

Source: Ark. Code Ann. § 6-13-1013

## **15.00 LIAISON FOR SHARING AND COORDINATION OF ACTIVITIES**

- 15.1 The Department of Education shall encourage sharing and coordination of activities among the education service cooperatives.
- 15.2 The Commissioner of Education shall name a person to serve as liaison between the department and the education service cooperatives.
- 15.3 This liaison shall provide information on resources and programs and be the general contact person in the department for the education service cooperatives.

Source: Ark. Code Ann. § 6-13-1014

## **16.00 LIAISON WITH POSTSECONDARY INSTITUTIONS**

- 16.1 Each education service cooperative, in carrying out its programs and services, shall cooperate with the various state-supported postsecondary educational institutions located within its area.
- 16.2 Each such postsecondary institution, within the availability of funds and personnel, shall establish liaison with the education service cooperatives in its service area and assist them in all practical ways.

Source: Ark. Code Ann. § 6-13-1015

## **17.00 ANNUAL SURVEYS AND NEEDS ASSESSMENTS**

- 17.1 Each education service cooperative shall conduct annual surveys and needs assessments to assist the education service cooperative in its first priority of helping school districts improve their educational programs and practices.

- 17.2 Such activities may include written surveys, visits to schools to meet with local personnel, and other means to identify local needs throughout the service area.
- 17.3 Each education service cooperative shall work with the Department of Education to conduct statewide surveys which complement, rather than duplicate, the work of the Department of Education.
- 17.4 The objective shall be to obtain statewide, area, and local data with as little duplication as possible.

Source: Ark. Code Ann. § 6-13-1016

## **18.00 PROGRAMS AND SERVICES**

- 18.1 The programs and services of each education service cooperative shall be based upon the needs of the school districts included in its service area and upon the educational priorities of the state.
- 18.2 Each education service cooperative shall provide a teacher center as its basic curriculum and staff development capability.
- 18.3 Education service cooperatives may provide shared educational programs and services such as needs assessment and school improvement planning, staff development, curriculum development, itinerant teachers, instructional materials, adult and vocational education, programs for gifted and talented, education for children with disabilities, alternative educational programs, secondary area vocational centers, community-based education programs and other services which the State Board of Education may approve or which school districts may support with local funds.

Source: Ark. Code Ann. § 6-13-1017

## **19.00 PARTICIPATION OF LOCAL SCHOOL DISTRICTS**

- 19.1 Each school district within the service area of the education service cooperative shall be entitled to participate in those programs and services which are fully supported by state funds.
- 19.2 No school district shall be required to participate in any service.

- 19.3 School districts may enter into contracts with the education service cooperative for services supported partially or completely by local school funds.
- 19.4 School districts within one (1) education service cooperative may also contract for services with another education service cooperative.

Source: Ark. Code Ann. § 6-13-1018

## **20.00 FUNDING OF EDUCATION SERVICE COOPERATIVES**

- 20.1 The state shall provide funds to support the basic structure of the education service cooperatives established under the provisions of Title 6, Chapter 13, Subchapter 10 of the Arkansas Code and these rules.
- 20.2 This structure shall include:
  - 20.2.1 Salaries and fringe benefits for a director, a teacher center coordinator, and support staff;
  - 20.2.2 Costs such as travel, utilities, rent, equipment, and supplies;
  - 20.2.3 Funds to support staff and curriculum development activities; and
  - 20.2.4 Funds in an annual amount not to exceed twenty-five thousand dollars (\$25,000) for the travel expenses of itinerant personnel employed by the education service cooperative to serve the part-time needs of local school districts.
- 20.3 School districts may contract with their education service cooperative for services and part-time personnel to be supported in whole or in part by local funds, but no school district shall be assessed a membership fee.
- 20.4 Categorical state or federal funds may also be assigned to any education service cooperative upon approval of its governing body and under conditions set by the State Board of Education.

- 20.5 As a public agency, each education service cooperative shall be eligible to receive and expend public and private funds.

Source: Ark. Code Ann. § 6-13-1019

## **21.00 POLICIES, PROCEDURES, EXPENDITURES, REPORTS AND AUDITS**

- 21.1 On or before August 31 of each year, each education service cooperative shall file with the State Board of Education for the state board's approval:

21.1.1 The policies and procedures of the education service cooperative, including without limitation the board of directors' policies and procedures for overseeing the administrative and program expenditures of the education service cooperative;

21.1.2 A record of the education service cooperative's employment policies and practices for the year that includes without limitation:

21.1.2.1 The race and sex of each person the education service cooperative employed or terminated during the year;

21.1.2.2 The race and sex of every person who sought employment with the education service cooperative during the year;

21.1.2.3 The name of each person employed by the education service cooperative during the year who is related by blood or marriage to another employee or board member of the education service cooperative; and

21.1.2.4 A report of its receipts and expenditures made in accordance with uniform accounting procedures adopted by the Commissioner of Education.

21.1.2.5 The report shall contain without limitation:

- 21.1.2.5.1 An itemization of administrative and program expenditures; and
  - 21.1.2.5.2 The result of the board of directors' review of the expenditures made under its oversight function.
- 21.2 The Department of Education may prescribe the forms and procedures for filing the information required by Section 21.01 of these rules.
- 21.3 Each education service cooperative is subject to an annual audit by the Legislative Joint Auditing Committee.
- 21.4 In an annual meeting of the board of directors which must convene between May 15 and July 15, each education service cooperative shall report to its constituent school districts on the year's operations.
  - 21.4.1 The report also shall include information on fiscal distress under Ark. Code Ann. § 6-13-1027 and Section 27.00 of these rules.
  - 21.4.2 The education service cooperative shall supplement its report with written reports to each school district and to the department on a school-by-school, service-by-service accounting basis.
- 21.5 Following the end of each fiscal year, any balances in particular service accounts must be apportioned and returned to the schools involved or credited to their accounts for the following year.

Source: Ark. Code Ann. § 6-13-1020

## **22.00 EVALUATIONS AND PERFORMANCE RATING**

- 22.1 Each education service cooperative shall be evaluated during the 2012-2013 school year, and at least once within each five-year period, on a schedule established by the Commissioner of Education, all active education service cooperatives must be visited by an evaluation committee of not more than nine (9) persons.

- 22.2 Each evaluation shall include, but not be limited to, an investigation of user satisfaction, service adequacy, extent of local financial support, staff qualifications, and performance and administration effectiveness.
- 22.2.1 At least forty-five (45) calendar days prior to the on-site evaluation conducted by the evaluation committee, the education service cooperative to be evaluated shall complete a self-study and submit the self-study to the Commissioner of Education or his or her designee. The self-study should include an analysis of each of the evaluation categories listed in Section 22.05 of these rules. A self-study guide and rubric for the evaluations are attached as an appendix to this rule.
- 22.2.2 During the on-site evaluation, the evaluation committee shall review available evidence to verify the conclusions of the self-study.
- 22.3 The final evaluation, including any self-evaluation, shall be included in the annual report to the Department of Education required by Ark. Code Ann. § 6-13-1020 and Section 21.00 of these rules, and made available on the website of the education service cooperative.
- 22.4 The evaluation criteria herein have been developed collaboratively between the Department of Education and the director of each education service cooperative.
- 22.5 The evaluation criteria shall be as follows:
- 22.5.1 User Satisfaction
- 22.5.1.1 “Level 5”: Summative data are provided for all phases of the program and evidence is provided to support improved district satisfaction linked to teacher and student performance. Narrative is coherent with data and documents adequacy of services to meet identified needs.
- 22.5.1.2 “Level 4”: Data supporting the effective operation of the teacher center, professional development and technology are provided, but the

narrative description is inconsistent with data provided or not linked to documented needs.

- 22.5.1.3 “Level 3”: Data such as use records and teacher session evaluations are provided, but there is no synthesis of the data and the description is limited to organization, not teacher satisfaction or future offerings.
- 22.5.1.4 “Level 2”: The operation and management of the teacher center are detailed but no data are presented to provide evidence that teacher/administrator satisfaction has been achieved.
- 22.5.1.5 “Level 1”: Adequacy is supported by broad, general statements with minimal or no specifics related to data that support adequacy of service. Services provided are inconsistent with needs assessment if such data are available.

## 22.5.2 Service Adequacy

- 22.5.2.1 “Level 5”: Summative data are provided for all phases of the program and evidence is provided to support improved services that can be linked to student performance at the local district level. Narrative is coherent with data and documents adequacy of services to meet identified needs.
- 22.5.2.2 “Level 4”: Data supporting the effective operation of the teacher center, resources, curriculum, professional development and technology are provided, but the narrative description is inconsistent with data provided or not linked to documented needs.
- 22.5.2.3 “Level 3”: Data such as use records and teacher session evaluations are provided, but there is no synthesis of the data and the use of the data is

limited and not directed for future planning that would enhance local district student performance.

22.5.2.4 “Level 2”: The operation and management of the teacher center are detailed but no data are presented to provide evidence that cooperative services are provided to meet the districts’ needs.

22.5.2.5 “Level 1”: Adequacy is supported by broad, general statements with minimal or no specifics related to data that support adequacy of service. Services provided are inconsistent with needs assessment if such data are available.

### 22.5.3 Extent of Local Financial Support

22.5.3.1 “Level 5”: Resources of the educational service cooperative are enhanced by forming support networks among the member schools to provide extended services, provide new services and combine funding to support programs such as group purchasing, thus maximizing local school district funding. All or most all of the member LEAs participate by purchasing services and providing released time for staff to engage in specialized training and services.

22.5.3.2 “Level 4”: External grants are secured but not all local districts participate in the extended services. At least half, but not all, LEAs enter into two or more externally funded activities or events supported with local contributions.

22.5.3.3 “Level 3”: At least fifty percent (50%) of the local districts support the cooperative in offering extended services in one or two activities or events or purchased services with local district funds. Education service cooperative develops proposals for external funding but is not successful with acquiring outside funding.

22.5.3.4 “Level 2”: The education service cooperative documents proposals to extend services to local school districts, but a limited number of districts opt to purchase services with local funds. No external grants are submitted to extend local services.

22.5.3.5 “Level 1”: Local districts do not support programs or extended services by purchasing additional services with local funds. There are no external grants to support extended services to local districts.

#### 22.5.4 Staff Qualifications

22.5.4.1 “Level 5”: All staff meet or exceed licensure qualifications for the position in which they are employed. Employment decisions are always based on professional qualifications.

22.5.4.2 “Level 4”: Employment decisions are generally based on licensure qualifications; however, there may be documented reasons to employ a person(s) for a position for which no qualified individual is available.

22.5.4.3 “Level 3”: No more than twenty-five percent (25%) of staff fail to meet appropriate licensure requirements. In cases where an employee was hired without having proper licensure, strategies were implemented to assure that the employee becomes qualified in a reasonable amount of time.

22.5.4.4 “Level 2”: Employment decisions are made without regard for licensure requirements; deficiency plans are in place, but the employees fail to meet expected progress and are not dismissed.

22.5.4.5 “Level 1”: Fifty percent (50%) or more of the staff hold positions for which they lack full

licensure/certification. Employment decisions seem to be based on criteria other than professional licensure standards.

## 22.5.5 Performance and Administrative Effectiveness

- 22.5.5.1 “Level 5”: The education service cooperative has personnel policies that are up-to-date (reviewed within the past year). Annual reports are developed and submitted to the Department of Education/State Board of Education and to local school districts. Any audit findings from the most recent audit report have been addressed completely. There is documentation of an annual performance evaluations of the director and staff.
- 22.5.5.2 “Level 4”: There is clear documentation of performance of the director and staff. There is documentation of a recent state audit, but one or more deficiencies have not been addressed. There is a staff performance evaluation, but there is no evidence of a performance evaluation of the director. Annual reports are prepared and distributed, but not posted for public review.
- 22.5.5.3 “Level 3”: Budgets and accounting policies are current and most audit findings have been addressed, but changes may not be fully implemented. Personnel policies are in place but have not been reviewed within the past three years. The director and staff have documented performance evaluations within the past three years. Annual reports are prepared, but not distributed to all local school participants.
- 22.5.5.4 “Level 2”: Personnel policies are in place and up-to-date, but there is no evidence of performance evaluations for the director or staff. Annual reports have been prepared and submitted to the Department of Education and State Board, but were

not posted or submitted to LEA members. Follow-up to audit report documents is incomplete.

22.5.5.5 “Level 1”: Cooperative budgets are prepared but do not seem to be used for administration of the cooperative. There are audit findings from recent state audits that have not been addressed. Personnel policies, if available, are out of date and have not been reviewed for over five years.

22.5.6 Each education service cooperative shall receive an overall evaluation rating from one (1) to five (5). The overall evaluation rating will consist of an average of the individual category ratings from Sections 22.05.1 through 22.05.5 above.

22.6 The report of the evaluation committee shall be filed with the education service cooperative visited, with its constituent school districts, and with the State Board of Education.

22.6.1 The State Board of Education shall acknowledge receipt of the report and comment on any deficiencies identified in the report that should be corrected for the education service cooperative to remain eligible for base funding.

22.6.2 The report shall identify each education service cooperative as being in one (1) of the following category levels, based on the evaluation:

22.6.2.1 “Level 5”, education service cooperative of excellence;

22.6.2.2 “Level 4”, education service cooperative exceeding standards;

22.6.2.3 “Level 3”, education service cooperative meeting standards;

22.6.2.4 “Level 2”, education service cooperative on alert; or

- 22.6.2.5 “Level 1”, education service cooperative in need of immediate improvement.
- 22.6.3 As set forth in Ark. Code Ann. §§ 6-13-1021-6-13-1022 and Sections 22.00-23.00 of these rules, the evaluation committee may recommend to the State Board of Education that an education service cooperative be dissolved.
- 22.7 The intent of this evaluation procedure is to provide a means for school districts to express their concerns about the operation of their education service cooperative and to ensure that each education service cooperative remains alert and responsive to the needs of the local schools it serves.
- 22.8 An education service cooperative that receives a performance category level of level 1 shall be reevaluated during the evaluation cycle the following year.
- 22.9 For all education service cooperatives that receive a performance category level of level 1 for two (2) consecutive years, the Department of Education shall:
  - 22.9.1 Withhold base funding to the education service cooperative; or
  - 22.9.2 Take over administration of the education service cooperative.
- 22.10 For each evaluation, the Commissioner of Education shall appoint the committee and designate its chairperson.
  - 22.10.1 The committee shall include the following from outside the boundary of the education service cooperative being evaluated:
    - 22.10.1.1 A Department of Education staff member;
    - 22.10.1.2 A teacher;
    - 22.10.1.3 An administrator;
    - 22.10.1.4 A college staff member; and
    - 22.10.1.5 A present or former staff member of an area education service agency.

22.10.2 In addition, the committee shall include from within the education service cooperative's area:

22.10.2.1 A member of a school district board of directors;

22.10.2.2 A representative of business and industry; and

22.10.2.3 A school parent from each of two (2) school districts.

22.11 Each education service cooperative shall pay the reasonable costs of its evaluation.

Source: Ark. Code Ann. § 6-13-1021

## **23.00 DISSOLUTION OF AN EDUCATION SERVICE COOPERATIVE**

23.1 The State Board of Education shall be authorized to dissolve any education service cooperative upon the request of a majority of its school district boards of directors or upon the recommendation of the evaluation committee provided for in Ark. Code Ann. §§ 6-13-1021-6-13-1022 and Sections 22.00-23.00 of these rules.

23.2 A dissolved education service cooperative's area shall be assigned to one (1) or more adjacent education service cooperatives, the provisions of Ark. Code Ann. § 6-13-1003 and Section 5.00 of these rules notwithstanding, with the dissolved education service cooperative's base funding apportioned to all remaining education service cooperatives in the state.

23.~~32~~ After payment of debts, the assets of a dissolved education service cooperative shall be distributed to the school districts in its service area based on each school district's three-quarter average daily membership for the immediately preceding school year.

23.~~43~~ Any active grant funds held by the dissolved education service cooperative shall be distributed to the Commissioner of Education in accordance with the grant requirements, state and federal law, and the best interests of the school districts within the boundaries of the dissolved cooperative. To the extent allowed by the grant requirement or by law, active grant funds may be transferred to one or more public school districts or education service cooperatives, or to the Department, for future administration of the grant funds.

Source: Ark. Code Ann. § 6-13-1022

## **24.00 TECHNOLOGY CENTERS**

- 24.1 Consistent with funds available and upon a majority vote of the members present and voting, the board of directors of each education service cooperative established under Title 6, Chapter 13, Subchapter 10 of the Arkansas Code is authorized to establish a technology training center and employ a technology coordinator who has demonstrated expertise in computer technology and staff development.
- 24.2 The duties of the technology coordinator at such technology training center shall include, but not be limited to, the following:
  - 24.2.1 To provide staff development for personnel of member schools;
  - 24.2.2 To assist member schools with determining technology needs and types of computer hardware and software necessary to meet those needs;
  - 24.2.3 To assist with technology system analysis and local network design;
  - 24.2.4 To provide member schools with information on technology standards and specifications;
  - 24.2.5 To develop and coordinate a technology training center located at the education service cooperative;
  - 24.2.6 To coordinate information with the Arkansas Public School Computer Network, the Instructional Microcomputer Project for Arkansas Classrooms, and the Governor's Technology Task Force so that member schools will be informed on technological activity in the state; and

- 24.2.7 To assist with requests for proposal development and bid analysis so that member schools will be better able to spend funds for technology.

Source: Ark. Code Ann. § 6-13-1023

## **25.00 MATHEMATICS AND SCIENCE CENTER**

- 25.1 Consistent with funds available and upon a majority vote of the members present and voting, the board of directors of each education service cooperative established under this subchapter is authorized to establish a mathematics and science center and to employ a mathematics and science coordinator who has demonstrated expertise in mathematics and science content, in pedagogy, and in staff development.
- 25.2 The duties of the mathematics and science coordinator at the mathematics and science resource center shall include, but not be limited to, the following:
- 25.2.1 Providing mathematics and science staff development for and individual technical assistance to personnel of member schools;
  - 25.2.2 Assisting member schools with determining mathematics and science curricula, with instruction, and with assessment of needs and resources necessary to meet those needs;
  - 25.2.3 Enhancing curricula and instruction using technology;
  - 25.2.4 Providing member schools with information for curriculum alignment with mathematics and science standards and state frameworks;
  - 25.2.5 Developing and coordinating a mathematics and science resource center located at the education service cooperative; and
  - 25.2.6 Assisting with the development of requests for proposals for teacher enhancement in mathematics and science.

Source: Ark. Code Ann. § 6-13-1025

## **26.00 COOPERATIVES AS LOCAL EDUCATION AGENCIES**

- 26.1 Education service cooperatives created by Title 6, Chapter 13, Subchapter 10 of the Arkansas Code meet the definition of “local education agencies” by virtue of the fact that each is a public authority, legally constituted within this state to perform a service function for a public elementary and secondary school in school districts and other political subdivisions of the state and to form a consortia of school districts which are recognized by the General Assembly as administrative agents for public elementary and secondary schools.
- 26.2 This section intends to recognize the function of the cooperatives and to provide eligibility to cooperatives to receive state and federal funds upon written requests from the school districts.

Source: Ark. Code Ann. § 6-13-1026

## **27.00 FISCAL DISTRESS – EDUCATION SERVICE COOPERATIVES**

- 27.1 Any education service cooperative that meets one (1) or more of the following criteria may be identified by the Department of Education as being in fiscal distress upon final approval of the State Board of Education:
  - 27.1.1 A declining balance that jeopardizes the fiscal integrity of the education service cooperative. The Department of Education shall not use capital outlay expenditures from the education service cooperative’s balance for facilities to identify the education service cooperative as being in fiscal distress;
  - 27.1.2 A material failure to meet the education service cooperative’s obligation to maintain the education service cooperative’s facilities;
  - 27.1.3 A material violation of local, state, or federal law or regulations relating to:
    - 27.1.3.1 Fire, health, or safety codes;
    - 27.1.3.2 Construction codes;
    - 27.1.3.3 Audit requirements; or

- 27.1.3.4 Procurement, bidding, and purchasing requirements;
- 27.1.4 A material failure to provide timely and accurate legally required financial reports to the department, the Division of Legislative Audit, the General Assembly, or the Internal Revenue Service;
- 27.1.5 A material failure to maintain sufficient funds to cover payroll, salary, employment benefits, or legal tax obligations;
- 27.1.6 A material default on any debt obligation;
- 27.1.7 A material discrepancy between budgeted and actual expenditures;  
or
- 27.1.8 Any other fiscal condition of the education service cooperative that the Department of Education determines materially impacts the education service cooperative's delivery of education services.
- 27.2 The Department of Education may identify an education service cooperative as being in fiscal distress at any time a fiscal condition of the education service cooperative is discovered to have a detrimental negative impact on the continuation of educational services provided by the education service cooperative.
- 27.3 If the Department of Education identifies an education service cooperative as being in fiscal distress, the Department of Education shall notify the education service cooperative in writing of the identification of fiscal distress within ten (10) calendar days.
- 27.4 The Department of Education shall identify in the notice each criteria for fiscal distress on which the department based the identification of fiscal distress.
- 27.5 The Department of Education shall deliver the notice by certified mail, return receipt requested, and addressed to:
  - 27.5.1 The president of the education service cooperative's board of directors; and

- 27.5.2 The director of the education service cooperative employed under Ark. Code Ann. § 6-13-1010 and Section 11.00 of these rules.
- 27.6 The identification of fiscal distress made by the Department of Education under Ark. Code Ann. § 6-13-1027 and Section 27.00 of these rules may be appealed to the State Board of Education under Ark. Code Ann. § 6-13-1031 and Section 31.00 of these rules in which case the final order entered upon appeal is the final classification of fiscal distress.
- 27.7 Within two (2) weeks following the date the education service cooperative receives the final classification by the State Board of Education of fiscal distress, the education service cooperative shall:
  - 27.7.1 Notify in writing each public school district in its service area that the education service cooperative is classified as being in fiscal distress; and
  - 27.7.2 File with the Department of Education a fiscal distress plan under Ark. Code Ann. § 6-13-1028 and Section 28.00 of these rules.
- 27.8 An education service cooperative that is identified as being in fiscal distress shall not incur any debt without the prior written approval of the department.
- 27.9 The education service cooperative shall include in the annual report to constituent school districts under Ark. Code Ann. § 6-13-1020(d) and Section 21.00 of these rules the progress the education service cooperative had made on its fiscal distress plan.

Source: Ark. Code Ann. § 6-13-1027

## **28.00 FISCAL DISTRESS PLAN**

- 28.1 An education service cooperative that is classified by the State Board of Education as being in fiscal distress shall file with the Department of Education a fiscal distress plan that:
  - 28.1.1 Addresses each area of fiscal distress identified by the Department of Education;

- 28.1.2 Describes how the education service cooperative will remedy the areas experiencing fiscal distress; and
- 28.1.3 Establishes the schedule by which the education service cooperative will implement the fiscal distress plan. The fiscal distress plan implementation schedule shall not exceed two (2) years from the date of the final classification of fiscal distress.
- 28.2 The Department of Education shall approve the fiscal distress plan before the education service cooperative implements the fiscal distress plan.
- 28.3 An education service cooperative identified as being in fiscal distress is required to receive on-site technical evaluation and assistance from the Department of Education.

Source: Ark. Code Ann. § 6-13-1028

## **29.00 FISCAL DISTRESS ACTIONS**

- 29.1 To address the identified areas of fiscal distress of an education service cooperative, the Department of Education shall:
  - 29.1.1 Conduct an on-site evaluation and make recommendations regarding the staffing and fiscal practices of the education service cooperative. The recommendations of the Department of Education are binding on the education service cooperative;
  - 29.1.2 Every six (6) months during which the education service cooperative is classified as being in fiscal distress, submit to the State Board of Education a written evaluation on the fiscal status of the education service cooperative;
  - 29.1.3 Monitor the fiscal operations and accounts of the education service cooperative; and
  - 29.1.4 Require the education service cooperative administrative staff and employees to obtain instruction or training in areas of fiscal concern for the education service cooperative.

29.2 The Department of Education also may take one (1) or more of the following actions:

29.2.1 Reorganize the administrative unit of the education service cooperative by:

29.2.1.1 Removing and replacing the director of the education service cooperative employed under Ark. Code Ann. § 6-13-1010 and Section 11.00 of these rules.

29.2.1.1.1 An individual appointed to replace the director shall administratively operate the education service cooperative under the supervision and approval of the Commissioner of Education.

29.2.1.1.2 The Department of Education may compensate nondepartment agents operating the education service cooperative from the education service cooperative's funding.

29.2.1.2 Removing, replacing, or reassigning other administrative staff of the education service cooperative; or

29.2.2 Impose reporting requirements on the education service cooperative.

29.3 Within two (2) consecutive school years of the State Board of Education's final classification of fiscal distress, the Department of Education shall determine whether to recommend that the education service cooperative be removed from fiscal distress status.

Source: Ark. Code Ann. § 6-13-1029

**30.00 REMOVAL FROM FISCAL DISTRESS**

- 30.1 The Department of Education shall certify in writing to the education service cooperative that the education service cooperative may be removed from fiscal distress status when the department determines that the education service cooperative has:
- 30.1.2 Corrected all of the criteria under Ark. Code Ann. § 6-13-1027 and Section 27.00 of these rules that led to the classification of fiscal distress; and
  - 30.1.3 Complied with all Department of Education recommendations and requirements for removal from fiscal distress status.
- 30.2 Within thirty (30) days of receiving the Department of Education's certification under Ark. Code Ann. § 6-13-1030(a) and Section 30.01 of these rules, an education service cooperative may petition the State Board of Education in writing for removal from fiscal distress. An education service cooperative may not petition the State Board of Education for removal from fiscal distress status before the Department of Education makes the certification under Ark. Code Ann. § 6-13-1030(a) and Section 30.01 of these rules.
- 30.3 Within sixty (60) days of receiving the petition for removal from fiscal distress, the State Board shall deny the petition or remove the education service cooperative from fiscal distress status.
- 30.4 If an education service cooperative fails to meet the Department of Education's requirements for removal from fiscal distress status within two (2) consecutive school years of being classified in fiscal distress, the State Board of Education shall:
- 30.4.1 Reorganize the administrative unit of the education service cooperative under Ark. Code Ann. § 6-13-1029 and Section 29.00 of these rules; or
  - 30.4.2 Issue a written finding supported by a majority vote of the State Board of Education explaining in detail that the education service cooperative could not comply with Ark. Code Ann. § 6-13-1030 or Section 30.00 of these rules due to impossibility caused by external forces beyond the education service cooperative's control. The

State Board of Education shall extend the classification of fiscal distress for one (1) additional year within which time the education service cooperative shall comply with all conditions for removal from fiscal distress status.

- 30.05 Within fifteen (15) days of making a decision under Ark. Code Ann. § 6-13-1030 and Section 30.00 of these rules, the State Board shall notify the education service cooperative of its decision and include with the notice a copy of a written finding issued under Ark. Code Ann. § 6-13-1030 and Section 30.04.2 of these rules.

Source: Ark. Code Ann. § 6-13-1030

### **31.00 APPEAL OF FISCAL DISTRESS IDENTIFICATION AND CLASSIFICATION**

- 31.1 An education service cooperative may appeal to the State Board of Education the identification of fiscal distress under Ark. Code Ann. § 6-13-1027 and Section 27.00 of these rules.
- 31.2 The education service cooperative may lodge an appeal by filing a written appeal with the Commissioner of Education by certified mail, return receipt requested, within thirty (30) days of the date the education service cooperative received notice of the identification of fiscal distress.
- 31.3 The written appeal shall state in clear terms the reason why the education service cooperative should not be classified as being in fiscal distress.
- 31.4 The State Board of Education shall hear the appeal within sixty (60) days of receipt of the written notice of appeal.
- 31.5 Notwithstanding any appeal rights in this section, no appeal shall stay the State Board of Education's or the Department of Education's authority to take action to enforce the education service cooperative's compliance with financial management, accounting, auditing, and reporting procedures required by state or federal law and regulations.
- 31.6 The decision of the State Board on the appeal is a final order. There is no further right of appeal except to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq.

Source: Ark. Code Ann. § 6-13-1031

## FINANCIAL IMPACT STATEMENT

### PLEASE ANSWER ALL QUESTIONS COMPLETELY

**DEPARTMENT** Arkansas Department of Education  
**DIVISION** Legal Services  
**PERSON COMPLETING THIS STATEMENT** Jennifer Davis  
**TELEPHONE NO.** 501-682-4227 **FAX NO.** 501-682-4249 **EMAIL:** jennifer.davis@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 Education Service Cooperatives

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       | _____ |
| Special Revenue  | _____ |
| Other (Identify) | _____ |

**Next Fiscal Year**

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

Total                      0

Total                      0

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

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total                      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**

\$ 0

**Next Fiscal Year**

\$ 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**

\$ 0

**Next Fiscal Year**

\$ 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.