

## Notice of Rulemaking

Pursuant to Arkansas Code Annotated § 25-15-201 et seq., notice is hereby given that the Arkansas State Board of Education is considering amending the ADE-DESE Rules Governing the School District Educational Excellence Trust Fund and promulgating new ADE-DESE Rules Governing the Educator Compensation Reform Program. A public comment hearing will be held on June 27, 2019, at 1:30 p.m. at the Arkansas Department of Education, Arch Ford Building, Four Capitol Mall, Room 201A, Little Rock, AR 72201. Written comments may be mailed to ADE Legal Services, Four Capitol Mall, Room 302A, Little Rock, AR 72201, or emailed to [ADE.RulesComments@arkansas.gov](mailto:ADE.RulesComments@arkansas.gov). Copies of the proposed rules/rules revisions may be obtained by writing to ADE's Legal Unit at the address above (Room 302A), or by accessing the Arkansas Department of Education's website at <http://www.arkansased.gov/divisions/legal/rules/pending>.

**Arkansas Department of Education**  
**Division of Elementary and Secondary Education**  
**Rules Governing the Educator Compensation Reform Program**  
**2019**

**1.00 PURPOSE**

- 1.01 These rules shall be known as the Arkansas Department of Education Rules Governing the Educator Compensation Reform Program.
- 1.02 The purpose of these rules is to provide the process and procedures necessary to calculate and allocate Educator Compensation Reform Program funds to eligible school districts.

**2.00 AUTHORITY**

- 2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by Ark. Code Ann. §§ 6-11-105, 25-15-201 et seq., and Act 170 of 2019.

**3.00 DEFINITIONS**

As used in these rules:

- 3.01 "Educator Compensation Reform Program fund" means a fund established within the Public School Fund for the Arkansas Department of Education, made available to school districts to assist with the cost of increasing teacher salaries as required by Ark. Code Ann. § 6-17-2403.
- 3.02 "Foundation Funding" means the same as the definition set forth in Ark. Code Ann. § 6-20-2303(7) and is the amount set forth in Ark. Code Ann. § 6-20-2305(a)(2).
- 3.03 "Teacher" means an individual who is required to hold a teaching license from the Department of Education 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, a guidance counselor, or a librarian.
- 3.03.1 "Teacher" also includes a nonlicensed classroom teacher employed in a position under a waiver from licensure.

**4.00 IMPLEMENTATION**

- 4.01 The Educator Compensation Reform Program ("Program") is designed to assist school districts in increasing the minimum teacher salary for a teacher with a bachelor's degree and zero (0) years of experience, to \$36,000 over a four-year period, beginning with the 2019-2020 school year.

- 4.02 School districts that adhered to a teacher compensation schedule at or above \$36,000 for a teacher with a bachelor's degree and zero (0) years of experience in the 2018-2019 school year shall not be eligible for funds under the Program.
- 4.03 School districts that implement a teacher compensation schedule at or above \$36,000 for a teacher with a bachelor's degree and zero (0) years of experience prior to the 2022-2023 school year shall not be eligible to receive funding under the Program the year after the \$36,000 minimum salary schedule becomes effective and thereafter.
- 4.04 Any public school district or open-enrollment public charter school that has or receives a waiver of the teacher minimum salary schedule during implementation of the Program shall not be eligible to receive Program funds and shall be responsible for repayment of any Program funds received prior to receiving the waiver.
- 4.05 School districts requesting Program funds shall provide information documenting eligibility for Program funds to the Department, including without limitation, the school district's plan for implementation of required salary increases and any anticipated or projected adjustments to staff, by completing and submitting the editable application form available on the Department's website at: <http://www.arkansased.gov/divisions/fiscal-and-administrative-services>.

## **5.00 CALCULATION**

- 5.01 The number of all licensed full-time equivalents (FTEs) not paid with federal funds in each school district will be used to calculate the amount of Program funds a school district is eligible to receive.
- 5.02 The amount of Program funds a school district is eligible to receive each year shall be calculated as follows:
- 5.02.1 Subtract each school district's minimum teacher salary for the prior school year for a teacher with a bachelor's degree and zero (0) years of experience from the minimum salary indicated by the school district for the current year, up to \$36,000.
- 5.02.2 Multiply the amount in 5.02.1 by the school district's 2017-2018 FTE count for licensed personnel not paid with federal funds.
- 5.02.3 Multiply the result from 5.02.2 by the current rate of Federal Insurance Contributions Act (FICA) tax and teacher retirement employer matching rate.
- 5.02.4 Add the result of 5.02.3 to the result of 5.02.2 to determine the total

amount necessary for the district to increase salaries and fringe.

## **6.0 DISBURSEMENT**

- 6.01 School districts that qualify for Program funds will be notified of the amount the school district is eligible to receive.
- 6.02 The superintendent of a school district that receives Program funds shall certify acceptance of the funds, adherence to these rules, and expenditure of the funds for the specified purpose.
- 6.03 The Department shall disburse each school district's allocation of Program funds on or before February 15 each year of implementation, in accordance with the approved application form.
- 6.03.1 A school district may request that an adjustment be made to its disbursement of Program funds during implementation of the Program by submitting a new application form to the Department.
- 6.03.2 A request to change the disbursement of Program funds must be approved by the Commissioner of Education.
- 6.04 If funds are not sufficient to fully fund the Program, the Department shall distribute the available funding to eligible school districts on a pro rata basis.

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**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Education

**DIVISION** Fiscal and Administrative Services

**PERSON COMPLETING THIS STATEMENT** Courtney Salas-Ford

**TELEPHONE** 501-682-4752      **FAX** 501-682-4249      **EMAIL:** [Courtney.Salas-Ford@arkansas.gov](mailto:Courtney.Salas-Ford@arkansas.gov)

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** ADE-DESE Rules Governing the Educator Compensation Reform Program

- 1. Does this proposed, amended, or repealed rule have a financial impact?      Yes       No
  
- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?      Yes       No
  
- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered?      Yes       No

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;

\_\_\_\_\_

(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**

**Next Fiscal Year**

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

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



Total \_\_\_\_\_

Total \_\_\_\_\_

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

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>
Total	<u>0</u>

General Revenue	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>
Total	<u>0</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**

**Next Fiscal Year**

\$ 0

\$ 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**

**Next Fiscal Year**

\$ 0

\$ 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.