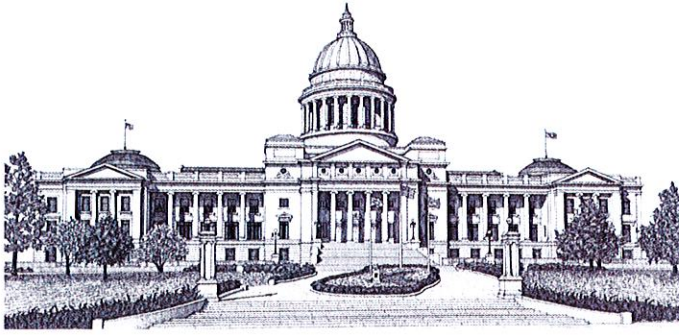


ARKANSAS REGISTER

Transmittal Sheet

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



Secretary of State
John Thurston
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 Division of Elementary and Secondary Education

Department Central Administration, Legal Unit

Contact Taylor Dugan E-mail taylor.dugan@arkansas.gov Phone 501-682-1958

Statutory Authority for Promulgating Rules Ark. Code Ann. §§ 6-11-105, 6-17-401 et seq. and Act 628 of 2019.

Rule Title: Division of Elementary and Secondary Education Emergency Rules Governing Educator Licensure

Intended Effective Date
(Check One)

Date

<input checked="" type="checkbox"/> Emergency (ACA 25-15-204)	Legal Notice Published	<u>N/A</u>
<input type="checkbox"/> 10 Days After Filing (ACA 25-15-204)	Final Date for Public Comment	<u>N/A</u>
<input checked="" type="checkbox"/> Other <u>8/23/2019 (Emergency)</u> <small>(Must be more than 10 days after filing date.)</small>	Reviewed by Legislative Council	<u>8/23/2019</u>
	Adopted by State Agency	<u>7/30/2019</u>

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

Taylor Dugan taylor.dugan@arkansas.gov 8/27/2019
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

501-682-1958 taylor.dugan@arkansas.gov

Phone Number E-mail Address

Staff Attorney

Title

8/27/2019

Date

DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING EDUCATOR LICENSURE

August 23, 2019

CHAPTER 5:
LICENSE EFFECTIVE DATES, RENEWAL, REINSTATEMENT,
AND CONVERSION

5-3.02 REINSTATEMENT OF A REVOKED LICENSE

5-3.02.1 The State Board may reinstate a revoked license if:

5-3.02.1.1 Ten years has passed since the date of revocation if the revocation was based on a felony disqualifying offense under § 6-17-410, or an ethics violation under § 6-17-428; or

5-3.02.1.2 Five years after the date of revocation for any other reason.

5-3.02.2 The State Board shall not reinstate a revoked license when the reasons for the revocation concerned the:

5-3.02.2.1 Physical or sexual injury of another person;

5-3.02.2.2 Physical or sexual abuse of another person;

5-3.02.2.3 Physical mistreatment of another person resulting in death; or

5-3.02.2.4 Sexual mistreatment of another person.

5-3.02.3 The State Board may reinstate a revoked license with or without a hearing if the applicant provides evidence from the Department of Human Services that the Department has removed the applicant's name from the Child Maltreatment Central Registry.

5-3.02.4 An application for reinstatement of revoked license must include the following:

5-3.02.4.1 A written request notifying the Office of Educator Effectiveness and PLSB of intent to seek the reinstatement of a revoked license;

5-3.02.4.2 An updated criminal records background check. All associated costs are the responsibility of the applicant;

5-3.02.4.3 A minimum of three reference letters from educational professionals attesting to the applicant's character and fitness to serve as an educator. Each individual providing a reference must submit the letter directly to

the Office of Educator Effectiveness and PLSB. The letter must include the notarized signature of the individual providing the reference and his or her contact information including email address, mailing address, and telephone number; and

5-3.02.4.4 Documentation of having completed any and all requirements of any criminal sentence, made restitution if applicable, paid any fine issued by the State Board of Education for ethics violations and, does not pose a threat to the health, safety, and welfare of public school students and public school employees:

5-3.02.5 The applicant must meet all current certification requirements in place at the time of application for an initial certification, including current testing requirements.

5-3.02.6 After receipt of a complete application for reinstatement of a revoked license, the Division of Elementary and Secondary Education shall send notice to the applicant that he or she may request a hearing before the State Board.

5-3.02.7 Reinstatement of a Revoked License Hearing Procedures.

5-3.02.7.1 An individual whose teaching license was revoked following an ethics complaint under 6-17-428 shall release to the State Board any confidential information regarding an ethics complaint made against an individual upon the individual's application for reinstatement of his or her revoked license. Any confidential information concerning student information/pictures/electronic media pictures/videos and/ or electronic communication shall be redacted and or edited to protect the identity of the person(s) that is currently or was a student at the time of the incident.

5-3.02.7.2 Each party shall exchange exhibits and witness lists not less than ten (10) calendar days before the scheduled hearing date, unless both parties agree to a shorter period of time.

5-3.02.7.3 Requests for subpoenas must be received in the Office of Legal Counsel not less than ten (10) calendar days before the hearing date.

5-3.02.7.4 Each party will have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the representative of the Division. The Chairperson of the State Board may, only for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.

5-3.02.7.5 Each party will have ten (10) minutes to present their cases, beginning with the representative of the Division. The Chairperson of the State Board may, only for good cause shown and upon the

request of either party, allow either party additional time to present their cases.

5-3.02.7.6 Every witness giving oral testimony must be sworn under oath by the Chair of the State Board and shall be subject to direct examination, cross examination, and questioning by the State Board.

5-3.02.7.7 For the purposes of the record, documents offered during the hearing by the Division shall be clearly marked "DESE" and numbered in sequential, numeric order (for example: DESE-1).

5-3.02.7.8 For the purposes of the record, documents offered during the hearing by the Educator shall be clearly marked "Educator" and numbered in sequential, numeric order (for example: Educator-1).

5-3.02.7.9 While the scope of each party's presentation ultimately lies within the State Board Chairperson's discretion, case presentation should be arranged in such a way as to avoid redundant testimony.

5-3.02.7.10 After both parties have presented their cases, the State Board may allow each party to present limited rebuttal testimony.

5-3.02.7.11 Each party will be given five (5) minutes to present a closing argument, ending with the Division.

5-3.02.7.12 After making its decision, the State Board shall reduce its decision to writing and shall mail copies of the decision to each party and each party's attorney.

EMERGENCY CLAUSE

WHEREAS, Ark. Code. Ann § 6-17-402 requires the State Board of Education to promulgate rules to implement rules governing educator licensure; and

WHEREAS, the State Board of Education and the Division of Elementary and Secondary Education are proposing this section of the Division of Secondary and Elementary Education Rules Governing Educator Licensure for the purpose of providing qualified educators in Arkansas public schools, and to remove barriers to former educators who meet the requirement of Act 628 of 2019; and

WHEREAS, Act 628 of 2019, which allows the State Board of Education to reinstate a revoked educator's license under certain circumstances, requires the State Board of Education to promulgate rules setting forth the criteria for reinstatement. These emergency rules are necessary to expedite the process and allow qualified applicants the ability to reinstate their license; and

WHEREAS, the State Board of Education finds that imminent peril exists to the public educational health, safety and welfare of the school children of Arkansas due to the need for qualified and effective licensed educators in public schools.

THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that immediate peril to the welfare of Arkansas public schools will result without the immediate promulgation of these rules.

QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Division of Elementary and Secondary Education
DIVISION Educator Effectiveness
DIVISION DIRECTOR Dr. Suzanne Bailey
CONTACT PERSON Taylor Dugan
ADDRESS Four Capitol Mall, Room 301-A, Little Rock, AR 72201
PHONE NO. 501-682-1958 **FAX NO.** 501-682-4249 **E-MAIL** taylor.dugan@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Taylor Dugan
PRESENTER E-MAIL Taylor.dugan@arknsas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

- 1. What is the short title of this rule? DESE Emergency Rules Governing Educator Licensure
- 2. What is the subject of the proposed rule? Implementation of the Section dealing with the Reinstatement of a revoked License.
- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes _____ No x _____
If yes, please provide the federal rule, regulation, and/or statute citation. _____
- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
Yes x No _____
If yes, what is the effective date of the emergency rule? August 23, 2019
When does the emergency rule expire? December 21, 2019
Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes X No _____

5. Is this a new rule? Yes _____ No If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes _____ No If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes No _____ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. § 6-11-105, § 6-17-402, § 25-15-201 et seq, and Act 628 of 2019

7. What is the purpose of this proposed rule? Why is it necessary? Amendment to existing rule. Act 628 of 2019, which allows the State Board of Education to reinstate a revoked educator's license under certain circumstances, requires the State Board of Education to promulgate rules setting forth the criteria for reinstatement. These emergency rules are necessary to expedite the process and allow qualified applicants the ability to reinstate their license

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).
<http://www.arkansased.gov/divisions/legal/rules/pending>

9. Will a public hearing be held on this proposed rule? Yes _____ No
If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
N/A

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
August 23, 2019

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. See attached

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). See attached

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Division of Elementary and Secondary Education
DIVISION Educator Effectiveness
PERSON COMPLETING THIS STATEMENT Taylor Dugan
TELEPHONE NO. 501-682-1958 **FAX NO.** 501-682-4249 **EMAIL:**taylor.dugan@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 DESE Emergency Rules Governing Educator Licensure

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes _____ No X
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 _____ X _____ 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 _____ X _____ 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 _____

Next Fiscal Year

General Revenue _____
Federal Funds _____

Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total _____

Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total _____

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

Current Fiscal Year

General Revenue _____ 0
 Federal Funds _____ 0
 Cash Funds _____ 0
 Special Revenue _____ 0
 Other (Identify) _____ 0
 Total _____ 0

Next Fiscal Year

General Revenue _____ 0
 Federal Funds _____ 0
 Cash Funds _____ 0
 Special Revenue _____ 0
 Other (Identify) _____ 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 _____ X _____

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.