

Amended Rules Summary:

**Arkansas Division of Elementary and Secondary Education Rules Governing the
Regulatory Basis of Accounting**

Act 867 of 2019 eliminated “alternative basis” as an option for school district financial audits, thus requiring that all districts use the “regulatory basis.” Prior to the passage of Act 867, the fact that Arkansas law *allowed* the alternative basis option—regardless of whether any district used it—meant that under federal law (EDGAR 200.520(b)), Arkansas school districts could not be considered low-risk auditees. (In a low-risk audit, fewer documents are reviewed). As a result of Act 867’s elimination of the alternative basis option, school districts that meet the other criteria set forth in federal law can be considered low-risk auditees. These rules are amended to eliminate the alternative basis option consistent with Act 867.

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Arkansas Department of Education, Division of Elementary and Secondary Education
DIVISION Fiscal and Administrative Services
DIVISION DIRECTOR Greg Rogers
CONTACT PERSON Lori Freno, General Counsel
ADDRESS Four Capitol Mall, Suite 302A, Little Rock, AR 72201
PHONE NO. 501/682-4234 **FAX NO.** 501/682-4249 **E-MAIL** lori.freno@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Lori Freno
PRESENTER E-MAIL lori.freno@arkansas.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:

Donna K. Davis
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? Rules Governing the Regulatory Basis of Accounting

2. What is the subject of the proposed rule? Regulatory Basis of Accounting

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. EDGAR 200.520

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? N/A

When does the emergency rule expire? N/A

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes

No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation.

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. Ark. Code Ann. §§ 6-21-804, 6-21-801 et seq., 25-15-201 et seq, and Acts 542 and 935 of 2017.

7. What is the purpose of this proposed rule? Why is it necessary? To implement changes made by Act 867 of 2019.

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>

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

Date: April 26, 2019

Time: 1:30 p.m.

Arkansas Department of Education
Four Capitol Mall, Room 201A

Place: Little Rock, AR 72201

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
October 19, 2019

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
December 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 and the Arkansas State Library 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. Public school districts, public charter schools, organizations representing those entities.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Education, Division of Elementary and Secondary Education

DIVISION Fiscal and Administrative Services

PERSON COMPLETING THIS STATEMENT Lori Freno, General Counsel

TELEPHONE 501/682-4234 **FAX** 501/682-4249 **EMAIL:** lori.freno@arkansas.gov

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

SHORT TITLE OF THIS RULE Rules Governing the Regulatory Basis of Accounting

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

- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No

- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

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

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

(b) The reason for adoption of the more costly rule;
N/A

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
N/A

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue N/A
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

General Revenue N/A
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

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

Current Fiscal Year

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

Total _____

Next Fiscal Year

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

Total _____

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

Current Fiscal Year

\$ Zero

Next Fiscal Year

\$ Zero

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ Zero

Next Fiscal Year

\$ Zero

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.

Arkansas ~~Department of Education~~
Division of Elementary and Secondary Education
Rules Governing the Regulatory Basis of Accounting
November 14, 2011 Effective:

1.00 Authority

- 1.01 The Arkansas State Board of Education’s authority for promulgating these Rules is pursuant to Ark. Code Ann. §§ 6-11-105, ~~and 6-20-401, 10-4-413, and Act 867~~ of 2019.
- 1.02 These rules shall be known as the Arkansas ~~Department of Education~~ Division of Elementary and Secondary Education Rules Governing the Regulatory Basis of Accounting.

2.00 Purpose

- 2.01 The purpose of these Rules is to establish a consistent basis of accounting for schools.

3.00 Definitions - For purposes of these Rules, the following terms mean:

- 3.01 “Accrue” – To record revenues when earned and to record expenditures as soon as they result in liabilities, regardless of when the revenue is actually received or the payment is actually made.
- 3.02 “Assets” – Probable future economic benefits obtained or controlled by a particular entity as a result of past transactions or events. Examples include: cash, investments, receivables, prepaid items, inventory, land, building, and equipment.
- 3.03 “Deferred Revenue” – Revenue received prior to the fiscal year in which it is earned. Deferred revenue is recorded as a liability when received and as revenue in the fiscal year it is earned.
- 3.04 “Expenditures” – Charges incurred, whether paid or unpaid, which are presumed to benefit the current fiscal year.
- 3.05 “Liabilities” – Debt or other legal obligations arising out of transactions in the past ~~which~~ that are payable but not necessarily due.
- 3.06 “Regulatory Basis of Accounting” — A basis of accounting that the reporting entity (school) uses to comply with the requirements or financial reporting provisions of a governmental regulatory agency (Arkansas ~~Department of Education~~ Division of Elementary and Secondary Education) to whose jurisdiction the entity is subject.

- 3.07 “Revenues” – Additions to assets ~~which~~ that do not increase a liability, do not represent the recovery of an expenditure, do not represent the cancelation of certain liabilities without a corresponding increase in other liabilities or decrease in assets, and do not represent contributions of fund capital in Food Service and Pupil Activity Funds.
- 3.08 “School” — any public school district, public charter school, educational cooperative, or any publicly supported entity having supervision over public educational entities.
- 3.09 “Uniform Rate of Tax (URT)” – Ad Valorem property tax of twenty-five (25) mills levied on the assessed value of all taxable real, personal, and utility property in the state to be used solely for maintenance and operations for the schools per Article 14, Section 3 of the Constitution of the State of Arkansas of 1874.

4.00 Financial Reporting-Regulatory Basis of Accounting

- 4.01 The financial statements shall be presented on a fund basis format. There shall be no entity-wide statements.
- 4.02 The financial statements shall consist of: Balance Sheet – Regulatory Basis; Statement of Revenues, Expenditures and Changes in Fund Balances – Governmental Funds - Regulatory Basis; Statement of Revenues, Expenditures and Changes in Fund Balances — Budget and Actual — General and Special Revenue Funds — Regulatory Basis.
- 4.03 There shall be included a Schedule of Capital Assets, including land, buildings, and equipment, as supplemental information. The Capital Assets shall be reported net of accumulated depreciation.
- 4.04 Major governmental funds shall be defined as general and special revenue. Such funds shall be presented separately in the financial statements. All other governmental funds shall be presented in the aggregate. Fiduciary fund types shall be presented in a separate column in the Balance Sheet — Regulatory Basis.
- 4.05 Revenues, except for property taxes (see below), shall be reported in the financial statements in the accounting period in which they become susceptible to accrual; —that is, when they become both measurable and available to finance expenditures of the fiscal period. Expenditures shall be reported in the financial statements when the related liability is incurred. Such expenditures shall not include accruals for interest payable, compensated absences, prepaid expenses, or inventories. Reported liabilities, shall not include the current portion of long-term debt or deferred revenues. Property taxes shall be recorded in accordance with Ark. Code Ann. § 6-20-401.
- 4.06 Revenues shall be reported by major sources, and expenditures shall be reported

by major function.

- 4.07 Other transactions ~~which~~ that are not reported as revenues or expenditures shall be reported as other financing sources and uses. Transactions related to the recording of installment contracts, capital leases, and significant insurance recoveries shall be reported as other financing sources. Losses resulting from the impairment of capital assets shall not be reported in the financial statements.
- 4.08 The carrying value of sinking funds, required by the provisions of a Qualified Zone Academy Bond (QZAB), shall be reported at cost. Risk disclosures of the related investments, as addressed in Governmental Accounting Standards Board Statement No. 40, shall not be included in the Notes to Financial Statements.
- 4.09 The Notes ~~To~~ to Financial Statements (NTFS) shall include those disclosures appropriate to the regulatory basis of accounting. The NTFS shall also include the following, if applicable: material summarized reporting information, ~~if material~~, pertaining to component units, related organizations, and other affiliated organizations (as defined by the Governmental Accounting Standards Board), as well as changes in private-purpose trust funds, and required disclosures related to long-term debt.
- 4.10 There shall be no Management's Discussion and Analysis.
- 4.11 The Schedule of Expenditures of Federal Awards shall be reported on the same basis of accounting as the financial statements.
- 4.12 Those payments made by the Arkansas ~~Department of Education (ADE)~~ Division of Elementary and Secondary Education on behalf of schools, but not directly to schools, shall not be recorded as revenue and expenditures by the schools. (Example: Health Insurance; contributions paid by ~~ADE~~ the Division in accordance with Ark. Code Ann. §6-17-1117.)

5.00 Alternative Basis of Presentation

- ~~5.01 The governing body of a school district may adopt a resolution, not less than six months before the end of the school fiscal year, requiring their financial statements be presented in accordance with the standards established by the Governmental Accounting Standards Board, the American Institute of Certified Public Accountants, and the United States Government Accountability Office. Once this resolution is made, it shall remain in effect until the governing board rules otherwise.~~
- ~~5.02 This resolution adopting the Alternative Basis of Presentation must be submitted to the Department of Education within ten (10) days of adoption by the local school board.~~