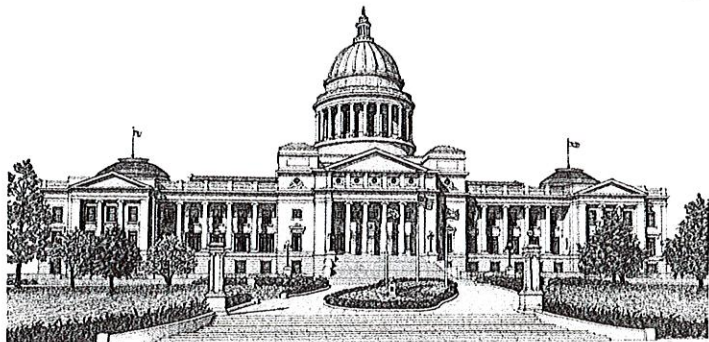


ARKANSAS REGISTER

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

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Department of Education

Department Division of Elementary and Secondary Education

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

Statutory Authority for Promulgating Rules Ark. Code Ann. §§ 6-11-105, 6-15-501 et seq., 6-18-232, 25-15-201 et seq., Act 429 and Act 430 of 2019.

Rule Title: Arkansas Department of Education Division of Elementary and Secondary Education Rules Governing Home Schools

Intended Effective Date

(Check One)

Date

<input type="checkbox"/> Emergency (ACA 25-15-204)	Legal Notice Published	<u>October 19-21, 2019</u>
<input checked="" type="checkbox"/> 10 Days After Filing (ACA 25-15-204)	Final Date for Public Comment	<u>November 19, 2019</u>
<input type="checkbox"/> Other _____ (Must be more than 10 days after filing date.)	Reviewed by Legislative Council	<u>June 19, 2020</u>
	Adopted by State Agency	<u>May 14, 2020</u>

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

Taylor Dugan taylor.dugan@arkansas.gov June 23, 2020
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.)

Taylor Dugan
Signature

501-682-1958 taylor.dugan@arkansas.gov
Phone Number E-mail Address

Attorney

Title

June 23, 2020
Date

**ARKANSAS DEPARTMENT OF EDUCATION
DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING HOME SCHOOLS**

Effective July 3, 2020

1.00 REGULATORY AUTHORITY

- 1.01 These regulations shall be known as Arkansas Department of Education Division of Elementary and Secondary Education Rules Governing Home Schools.
- 1.02 These regulations are enacted pursuant to the State Board of Education's authority under Ark. Code Ann. §§ 6-11-105, 6-15-501 et seq., 6-18-232, 25-15-201 et seq., Act 429 and Act 430 of 2019.

2.00 PURPOSE

It is the purpose of these rules to set reasonable guidelines for the operation of Home Schools.

3.00 DEFINITIONS

For the purpose of these rules:

- 3.01 "Athletic activity" means a varsity sport or another competitive sports-related contest, game, event, or exhibition that involves an individual student or teams of students either among schools within the resident school district or between schools outside of the resident school district.
- 3.02 "Current school year" means the official period of time for student attendance pursuant to the school district academic calendar in accordance with the requirements of Ark. Code Ann. § 6-10-106.
- 3.03 "Endorsed concurrent enrollment course" means a college level course offered by an institution of higher education in this state, that upon completion would qualify for academic credit in both the institution of higher education and a public high school that:
- 3.03.1 Is one of the four core areas of math, English, science, and social studies;
 - 3.03.2 Meets the requirements of Ark. Code Ann. § 6-16-1204(b); and
 - 3.03.3 Is listed in the Arkansas Course Transfer System of the Division of Higher Education.

- 3.04 "Home School" means a school provided by a parent or legal guardian for his or her own child.
- 3.05 "Home-schooled student" means a student legally enrolled in an Arkansas home school.
- 3.06 "Interscholastic activity" means an activity between schools subject to regulations of the Arkansas Activities Association that is:
- 3.06.1 Outside the regular curriculum of a school district, including without limitation an athletic activity, a fine arts program, or a special interest club or group; and
- 3.06.2 Taught by an individual with a minimum of a high school diploma;
- 3.07 "Public school" means a school operated by a public school district or an open-enrollment public charter school.
- 3.08 "Resident school" is the school to which the student would be assigned by the resident school district.
- 3.09 "Resident school district" means the school district in which the home-schooled student's parents reside as determined under Ark. Code Ann. § 6-18-202.

4.00 GENERAL

- 4.01 A parent or legal guardian who intends to home school a child in accordance with Ark. Code Ann. § 6-18-201, shall provide written notice to the superintendent of the resident school district and agree that the parent or guardian is responsible for the education of his or her child during the time the child is home-schooled. This written notice shall be provided at the beginning of each school year but no later than August 15 or, subject to the provisions of Sections 4.03 and 4.04, fourteen (14) calendar days prior to withdrawing the child from the resident district, as well as at the beginning of each school year thereafter. The superintendent or school board of the resident district may waive the fourteen (14) day waiting period.
- 4.02 No public school student shall be eligible for enrollment in a home school if the student is currently under disciplinary action for violation of any written school policy including, but not limited to, excessive unexcused absences. Exceptions to this requirement are outlined in Section 4.03.
- 4.03 Public school students who are under disciplinary action by a school district shall be eligible for enrollment in a home school if:

- 4.03.1 The superintendent or school board of the resident school district chooses to allow the child to enroll in a home school;
 - 4.03.2 The disciplinary action against the student has been completed or the school semester has ended, whichever occurs first; or
 - 4.03.3 The student has been expelled.
- 4.04 Home school students who enroll in a public, private or parochial school during the time they are home schooling cannot re-enter home schooling until a new Notice of Intent is completed and submitted to the resident school district or completed through the Division of Elementary and Secondary Education's online process.
- 4.05 Books, curricula or materials used in homeschooling are not required to be furnished by the Division of Elementary and Secondary Education, resident school district, or education service cooperative. It is the responsibility of the parent/guardian to furnish all books, curricula, or materials.

5.00 NOTICE OF INTENT

- 5.01 Parents or legal guardians who intend to home school must file a Notice of Intent with the superintendent of the resident school district and agree that the parent or guardian is responsible for the education of his or her child during the time the child is home-schooled. The Notice of Intent may be completed through the Division of Elementary and Secondary Education's online process, or by submitting a written Notice of Intent to the superintendent of the student's resident school district.
- 5.02 A current Notice of Intent form shall be made available from the Division of Elementary and Secondary Education's Home School webpage for each Arkansas School District and for parents or legal guardians who intend to home school.
- 5.03 The Notice of Intent may be submitted to the resident school district superintendent:
- 5.03.1 Electronically, Including without limitation:
 - 5.03.1.1 Through the Division of Elementary and Secondary Education's online process, which is located on the Division's Home School webpage; or
 - 5.03.1.2 By email.

- 5.03.2 By mail;
- 5.03.3 By fax; or
- 5.03.4 In person.
- 5.04 All Notices of Intent, which includes the agreement that the parent or guardian is responsible for the education of his or her child(ren) during the time the parent or legal guardian chooses to home school, must be submitted by August 15, or, subject to the provisions of Sections 4.03 and 4.04, fourteen (14) calendar days prior to withdrawing the child from the resident school district during the school year. The superintendent or school board of the resident district may waive the fourteen (14) day waiting period. The Notice of Intent is valid for the entire school year if filed at the beginning of the school year or for the remainder of the school year if filed during the school year.
- 5.05 Parents or legal guardians moving into a school district during the school year must file a copy of the current year Notice of Intent, which includes the agreement that the parent or guardian is responsible for the education of his or her child(ren) during the time the parent or guardian chooses to home school, with the resident school district superintendent's office within thirty (30) calendar days of establishing residency within the district.
- 5.06 The Notice of Intent must include the following information, which may be used only for statistical and recordkeeping purposes as required by law:
-
- 5.06.1 The name, sex, date of birth and grade level of each child and the name and address of the school last attended, if any, for each student;
- 5.06.2 The mailing address and telephone number of the home school;
- 5.06.3 The name of the parent or legal guardian providing the home school;
- 5.06.4 A statement of a student's plans to participate during the school year in public school interscholastic activities pursuant to Ark. Code Ann. § 6-15-509;
- 5.06.5 A statement of a student's plans to seek a high school equivalency diploma during the current school year; and
- 5.06.6 A signature of the parent or legal guardian.
- 5.06.7 Any other information that may be required under Ark. Code Ann.

§ 6-15-503.

- 5.07 No additional criteria or information shall be required for a student to attend a home school beyond what the law requires.
- 5.08 The information provided in the Notice of Intent is confidential and not subject to the Freedom of Information Act of 1967, § 25-19-101 et seq.

6.00 ENROLLMENT OR RE-ENROLLMENT IN PUBLIC SCHOOL

- 6.01 A public school district:
- 6.01.1 Shall afford a home-schooled student who enrolls or re-enrolls in a public school as a public school student the same rights and privileges enjoyed by other public school students; and
 - 6.01.2 Shall not deny a home-schooled student who enrolls or re-enrolls in a public school as a public school student any of the following solely on the basis of having attended a home school:
 - 6.01.2.1 Award of course credits earned in the home school;
 - 6.01.2.2 Placement in the proper grade level and promotion to the next grade level;
 - 6.01.2.3 Except as provided in Section 6.07, a diploma or graduation;
 - 6.01.2.4 Participation in any academic or extracurricular activity;
 - 6.01.2.5 Membership in school-sponsored clubs, associations, or organizations; or
 - 6.01.2.6 Scholarships.
- 6.02 To enroll or re-enroll in a public school as a public school student, a home-schooled student shall submit to the public school:
- 6.02.1 A transcript listing all courses taken and semester grades from the home school; and
 - 6.02.2 A portfolio of indicators of the home-schooled student's academic progress, including without limitation:
 - 6.02.2.1 Curricula used in the home school;

- 6.02.2.2 Tests taken and lessons completed by the home-schooled student; and
 - 6.02.2.3 Other indicators of the home-schooled student's academic progress.
- 6.03 A public school shall place a home-schooled student who enrolls or re-enrolls in the public school as a public school student at a grade level and academic course level equivalent to or higher than the home-schooled student's grade level and academic course level in the home school:
- 6.03.1 As indicated by the home-schooled student's:
 - 6.03.1.1 Transcript listing all courses taken and semester grades from the home school;
 - 6.03.1.2 Score of at least the thirtieth (30th) percentile on a nationally recognized norm-referenced assessment taken in the past year; and
 - 6.03.1.3 Portfolio of indicators of the home-schooled student's academic progress, including without limitation:
 - 6.03.1.3.1 Curricula used in the home school;
 - 6.03.1.3.2 Tests taken and lessons completed by the home-schooled student; and
 - 6.03.1.3.3 Other indicators of the home-schooled student's academic progress; or
 - 6.03.2 By mutual agreement between the public school and the home-schooled student's parent or legal guardian.
- 6.04 If the student is unable to provide a nationally recognized norm-referenced test score, the school shall:
- 6.04.1 Assess the student using a nationally recognized norm-referenced assessment; or
 - 6.04.2 Waive the nationally recognized norm-referenced assessment requirement.
- 6.05 Except as provided in 6.06, if the home-schooled student does not meet the requirements of 6.03, the public school shall have sole authority to determine the home-schooled student's grade placement and course credits based on the same methods used when a student who attended another public or private school

enrolls or re-enrolls in the public school.

- 6.06 A public school may waive all requirements under 6.02 and 6.03 and enroll the student by mutual agreement with the parent or guardian.
- 6.07 Any home-schooled student who enrolls or re-enrolls in a public school as a public school student shall attend classes for at least nine (9) months immediately before graduation before the student can become eligible to graduate from the public school with a diploma.

7.0 ENROLLMENT IN ACADEMIC AND ENDORSED CONCURRENT ENROLLMENT COURSES

- 7.01 A public school district shall adopt a policy that allows a student who attends a home school to enroll in an academic course at a public school if the student resides in the public school district where the public school is located.
- 7.02 A policy adopted by a public school district under 7.01 may:
- 7.02.1.1 Include provisions that apply to a home-schooled student enrolled in an academic course at a public school including without limitation provisions regarding:
- (i) Academic or grade-level prerequisites;
 - (ii) Attendance;
 - (iii) Testing;
 - (iv) Coursework;
 - (v) Grades; and
 - (vi) Conduct
- 7.02.1.2 The provisions included under subsection 7.02.1.1 of this section shall be consistent with provisions included in the public school district's policies that apply to public school students.
- 7.02.2 Allow a student who attends a home school to enroll in one (1) or more academic courses in a semester; and
- 7.02.3 Limit enrollment if the enrollment of a home-schooled student would:
- 7.02.3.1 Create a financial loss for the public school district; or

7.02.3.2 Violate any state or federal law or any rule established by the Division of Elementary and Secondary Education.

7.03 A public school district that enrolls a home-schooled student in an academic course is entitled to receive an amount equal to one-sixth (1/6) of the state foundation funding amount for each academic course in which a home-schooled student is enrolled, but not more than the equivalent of the state foundation funding amount for one (1) average daily membership per student.

7.04 A public school district may seek a waiver from Sections 7.01 through 7.03 from the Division of Elementary and Secondary Education.

7.04.1 A waiver shall be made in writing and state the rationale for the request. The request should be mailed to:

Division of Elementary and Secondary Education
 Division of Learning Services
 Four Capitol Mall, Mail Slot 6
 Little Rock, AR 72201

7.05 A public school district under this section:

7.05.1 May provide transportation to a home-schooled student to or from the location of the academic course.

7.05.2 Shall provide a final grade and transcript to each home-schooled student who completes an academic course in which the student is enrolled in the public school district.

7.05.3 Shall not charge a home-schooled student for an endorsed concurrent enrollment course unless the public school district also charges public school students for the endorsed concurrent enrollment course.

7.06 A home-schooled student is not considered truant from a public school under this section due to unexcused absences from the academic course in which the home-schooled student is enrolled. However, a public school may drop a homeschooled student from an academic course in the event of excessive unexcused absences or any other violation of policies regarding the academic course in which the home-schooled student is enrolled.

7.07 This section does not apply to a statewide open-enrollment public charter school that operates primarily as a virtual school.

7.08 All home school students enrolled in a course shall have a teacher of record who

is an appropriately licensed or approved primary instructor who is responsible for the course. School districts are responsible for ensuring that the teacher of record, even in a digital learning platform is performing job responsibilities as a teacher of record.

8.00 STUDENTS WITH DISABILITIES

Students with disabilities identified under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., in home school settings shall be given the same consideration afforded to students in private school settings for special education services as provided for in the IDEA. This policy is not to be construed as conferring the procedural protections and rights under Part B of the IDEA to such students and their parent/guardians.

9.00 PARTICIPATION IN INTERSCHOLASTIC ACTIVITIES

9.01 The principal of the resident school shall permit a home-schooled student to pursue participation in an interscholastic activity of the resident school if the student or the student's parent:

9.01.1 Provides the principal a notice of the student's desire to pursue participation before the signup, tryout, or participation deadlines established for students enrolled in the resident school; and

9.01.2 Informs the principal in the notice that the student has demonstrated academic eligibility by obtaining:

9.01.2.1 A minimum test score of the thirtieth percentile on the Stanford Achievement Test Series, Tenth Edition, or another nationally recognized norm-referenced test in the previous twelve (12) months; or

9.01.2.2 A minimum score on a test approved by the State Board of Education.

9.02 A resident school district may permit a home-schooled student to participate in an interscholastic activity if:

9.02.1 For purposes of 9.05, the home-schooled student reports to the resident school district within the first eleven (11) days of the fall or spring semester of the school district; and

9.02.2 The home-schooled student or his or her parent advises the principal of the resident school in writing of the student's request to participate in the interscholastic activity before the signup, tryout, or participation deadlines established for students enrolled in the resident school.

- 9.03 If a home-schooled student's written request to participate in the interscholastic activity is approved, the student:
- 9.03.1 Shall have an equal opportunity to tryout and participate in interscholastic activities without discrimination but is not guaranteed participation in an interscholastic activity; and
 - 9.03.2 Shall not participate unless he or she meets the criteria for participation in the interscholastic activity that apply to students enrolled in the resident school district, including:
 - 9.03.2.1 Tryout criteria;
 - 9.03.2.2 Standards of behavior and codes of conduct;
 - 9.03.2.3 The academic criteria under subsection 9.01.2;
 - 9.03.2.4 Practice times;
 - 9.03.2.5 Required drug testing;
 - 9.03.2.6 Permission slips, waivers, and physical exams; and
 - 9.03.2.7 Participation or activity fees.
- 9.04 A home-schooled student may participate in interscholastic activities at a public school other than the home-schooled student's resident school by mutual agreement between the resident school and any other public school where the home-schooled student wishes to participate.
- 9.04.1 A home-schooled student approved to participate at a nonresident school may begin participating:
 - 9.04.1.1 In an interscholastic activity that is not an athletic activity immediately upon being approved to participate; and
 - 9.04.1.2 Except as provided in subsection 9.04.3, in an interscholastic activity that is an athletic activity one (1) calendar year after being approved to participate.
 - 9.04.2 A home-schooled student approved to participate at a nonresident school may immediately participate in rehearsals, tryouts, practices, auditions, classes, or other endeavors associated with the interscholastic activity that is an athletic activity.

- 9.04.3 A home-schooled student may begin participating in an interscholastic activity that is an athletic activity immediately upon being approved to participate if the home-schooled student is approved to participate by July 1 of the school year the home-schooled student will be enrolled in the seventh (7th) grade.
- 9.05 A home-schooled student who participates in an interscholastic activity may be:
- 9.05.1 Required by the school district in which he or she participates to be at school not more than one (1) period per school day; and
- 9.05.2 Transported by the resident school district to and from interscholastic activities as the resident school district transports other students who are enrolled in the resident school.
- 9.06 A student who withdraws from an Arkansas Activities Association member school to be home-schooled shall not participate in an interscholastic activity in the resident school district for a minimum of three hundred sixty-five (365) days after the student withdraws from the member school.
- 9.07 A home-schooled student shall not participate in interscholastic activities at more than one (1) public school at the same time.
- 9.08 A public school shall provide a reasonable alternative to any prerequisite for eligibility to participate in an interscholastic activity that the home-schooled student is unable to meet because of his or her enrollment in a home school.
- 9.09 A reasonable alternative under 9.08 shall provide the home-schooled student with the same opportunity to participate in an interscholastic activity as a public school student.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Division of Elementary and Secondary Education

DIVISION Learning Services

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 Rules Governing Home Schools

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

Next Fiscal Year

General Revenue N/A
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 _____ 0
 Federal Funds _____ 0
 Cash Funds _____ 0
 Special Revenue _____ 0
 Other (Identify) _____ 0

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

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

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 _____ 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.