

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



Secretary of State  
John Thurston  
500 Woodlane Street, Suite 026  
Little Rock, Arkansas 72201-1094  
(501) 682-5070  
[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



---

Name of Department \_\_\_\_\_

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person \_\_\_\_\_

Contact E-mail \_\_\_\_\_

Contact Phone \_\_\_\_\_

---

Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_

## Notice of Rulemaking

Pursuant to Arkansas Code Annotated § 25-15-201 et seq., notice is hereby given that the Arkansas State Board of Education and the Division of Elementary and Secondary Education are considering revisions to the following DESE Rules and are releasing them for public comment: Succeed Scholarship Program; Student Special Needs Funding; Arkansas Teacher of the Year; College and Career Readiness Planning Programs; Consolidation and Annexation of School Districts; Federal Program Complaint Resolution; Parental Involvement Plans and Family and Community Engagement; and Immunization Requirements in Arkansas Public Schools.

The State Board and the Division are considering repeal of two rules: (1) Public School Student Services and (2) Enrollment of Military Dependents. The State Board and the Division are considering promulgation two new rules: (1) Act 1240 Waivers and (2) Enrollment of Children of Military Families.

A public hearing regarding these new and amended rules will be held on April 13, 2020, at 1:30 p.m. at the Arkansas Department of Education Auditorium, Four Capitol Mall, Little Rock, AR 72201. Participants may also call in to the hearing at (605) 475-4071 using access code 637586.

Written comments regarding these proposed rules may be mailed to the Office of Legal Services at Four Capitol Mall, Room 301A, Little Rock, AR 72201. Comments also may be emailed to [ADE.RulesComments@arkansas.gov](mailto:ADE.RulesComments@arkansas.gov). A copy of the proposed rules can be found at the Department's website at: <http://www.arkansased.org/divisions/legal/rules/pending>. Copies also may be obtained by contacting ADE's Office of Legal Services at the above address or via phone at (501) 682-4227.

~~ARKANSAS DEPARTMENT OF EDUCATION  
RULES GOVERNING PUBLIC SCHOOL STUDENT SERVICES  
October 2012~~

~~1.00 REGULATORY AUTHORITY~~

- ~~1.01 These rules shall be known as Arkansas Department of Education Rules Governing Public School Student Services.~~
- ~~1.02 These rules are enacted pursuant to the State Board of Education's authority under Ark. Code Ann. § 6-18-1001 et seq. and Ark. Code Ann. § 6-11-105.~~

~~2.00 LEGISLATIVE INTENT AND PURPOSE~~

- ~~2.01 It is the intent of the General Assembly, as set forth in the Public School Student Services Act:~~
- ~~2.01.1 To articulate the functions served by each of the components of a program of student services;~~
- ~~2.01.2 That each school district develop and implement a plan for providing student services to all students in the public school system, including area vocational technical schools; and~~
- ~~2.01.3 That student services coordinators be given time to fulfill their responsibilities under Title 6, Chapter 18, Subchapter 10 of the Arkansas Code.~~
- ~~2.02 The purpose of these rules is to provide guidance to local school districts and the Department of Education in complying with requirements of Ark. Code Ann. § 6-18-1001 et seq.; the Public School Student Services Act.~~
- ~~2.03 The further purposes of these rules are to:~~
- ~~2.03.1 Describe the student services program at all educational levels for which the school board of directors is responsible;~~
- ~~2.03.2 Establish criteria for the development by each school of a building-based student services plan which reflects input from parents, teachers, principals, students, and other agencies;~~
- ~~2.03.3 Identify alternative student services personnel who do not meet traditional graduate school requirements and who may be used by the school board of directors in providing the recommended student services;~~

~~including without limitation: paraprofessionals, teachers, parents, and representatives of business and industry, and~~

~~2.03.4 Establish minimum standards for all areas of student services personnel.~~

### 3.00 DEFINITION

3.01 ~~“Student services program” means a coordinated effort, which shall include, without limitation:~~

~~3.01.1 Guidance and counseling services, which shall include, without limitation:~~

- ~~3.01.1.1 The availability of individual and group counseling to all students;~~
- ~~3.01.1.2 Orientation programs for new students at each level of education and for transferring students;~~
- ~~3.01.1.3 Academic advisement for class selection by establishing academic goals in elementary, middle, and high school;~~
- ~~3.01.1.4 Consultation with parents, faculty, and out-of-school agencies concerning student problems and needs;~~
- ~~3.01.1.5 Utilization of student records and files;~~
- ~~3.01.1.6 Interpretation of augmented, criterion-referenced, or norm-referenced assessments and dissemination of results to the school, students, parents, and community;~~
- ~~3.01.1.7 The following up of early school dropouts and graduates;~~
- ~~3.01.1.8 A school-initiated system of parental involvement;~~
- ~~3.01.1.9 An organized system of informational resources on which to base educational and vocational decision making;~~
- ~~3.01.1.10 Educational, academic assessment, and career counseling, including advising students on the national college assessments, workforce opportunities, and alternative programs that could provide successful high school completion and postsecondary opportunities for students;~~
- ~~3.01.1.11 Coordinating administration of the Test for Adult Basic Education or the General Educational Development pretest~~

~~to students by designating appropriate personnel, other than the school guidance counselor, to administer the tests;~~

3.01.1.12 ~~Classroom guidance, which shall be limited to forty minute class sessions, not to exceed three (3) per day or ten (10) per week; and~~

3.01.1.13 ~~Guidance in understanding the relationship between classroom performance and success in school;~~

~~3.01.2 Psychological services, which shall include, without limitation:~~

3.01.2.1 ~~Evaluation of students with learning or adjustment problems;~~

3.01.2.2 ~~Evaluation of students in exceptional child education programs;~~

3.01.2.3 ~~Consultation and counseling with parents, students, and school personnel to ensure that all students are ready to succeed and that all students are preparing for college and work;~~

3.01.2.4 ~~A system for the early identification of learning potential and factors that affect the child's educational performance;~~

3.01.2.5 ~~A system of liaison and referrals, with resources available outside the school; and~~

3.01.2.6 ~~Written policies that assure ethical procedures in psychological activities;~~

~~3.01.3 Visiting teacher and school social work services, which shall include, without limitation:~~

3.01.3.1 ~~Providing casework to assist in the prevention and remediation of problems of attendance, behavior, adjustment, and learning; and~~

3.01.3.2 ~~Serving as liaison between the home and school by making home visits and referring students and parents to appropriate school and community agencies for assistance;~~

~~3.01.4 Career services, which shall include, without limitation, the dissemination of career education information, appropriate course taking patterns, and~~

~~the effect of taking more rigorous courses so that students are better prepared for college and work success;~~

~~3.01.5 Group conflict resolution services, which shall include, without limitation:~~

~~3.01.5.1 Educational and social programs that help students develop skills enabling them to resolve differences and conflicts between groups;~~

~~3.01.5.2 Programs designed to promote understanding, positive communication, and greater utilization of a race relations specialist or human relations specialist to assist in the development of intergroup skills; and~~

~~3.01.5.3 Programs designed to prevent bullying;~~

~~3.01.6 Health services, which shall include, without limitation:~~

~~3.01.6.1 Students with special health care needs, including the chronically ill, medically fragile, and technology-dependent, and students with other health impairments shall have individualized health care plans;~~

~~3.01.6.2 Invasive medical procedures required by students and provided at the school shall be performed by trained, licensed personnel who are licensed to perform the task subject to Ark. Code Ann. § 17-87-102(6)(D) or other professional licensure statutes, unless permitted under Ark. Code Ann. § 17-87-103(10) and (11). The regular classroom teacher shall not perform these tasks, except that public school employees may volunteer to be trained and administer glucagon to a student with type 1 diabetes in an emergency situation permitted under Ark. Code Ann. § 17-87-103(11); and~~

~~3.01.6.3 Custodial health care services required by students under individualized health care plans shall be provided by trained school employees other than the regular classroom teachers; and~~

~~3.01.7 The distribution of a suicide prevention public awareness program developed for distribution by the Arkansas Youth Suicide Prevention Task Force.~~

#### **4.00 GENERAL REQUIREMENTS OF THE PUBLIC SCHOOL STUDENT SERVICES ACT**

- 4.01 ~~Each school district shall develop and implement a plan that ensures that individual student services are coordinated in a manner utilizing such techniques as differentiated staffing so as to make maximum use of the contribution of each service. Only those personnel trained and certified in the appropriate specialty or following a Department of Education's deficiency removal plan (additional licensure plan (ALP)) will be assigned to carry out the duties of each service.~~
- 4.02 ~~Each school district plan shall reflect the use of alternative methods of classroom management. Such methods may include, without limitation:~~
- ~~4.02.1 Behavioral contracting;~~
  - ~~4.02.2 Dispute resolution;~~
  - ~~4.02.3 Classroom meetings;~~
  - ~~4.02.4 Logistical consequences;~~
  - ~~4.02.5 Assertive discipline;~~
  - ~~4.02.6 Behavior modification; and~~
  - ~~4.02.7 Career and academic counseling.~~
- 4.03 ~~Each school district plan shall provide for a district level tracking system for school dropouts and for students who fail to reach proficiency on state-mandated assessments. The tracking system shall include provisions for student services personnel in all schools to conduct exit interviews of students who are dropping out of school and for follow-up of such students when possible.~~
- 4.04. ~~The superintendent of a school district not in substantial compliance with the terms of its plan may be requested to appear before the Senate Interim Committee on Education and the House Interim Committee on Education.~~
- 4.05 ~~School counselors shall spend at least seventy five percent (75%) of work time each month during the school year providing direct counseling related to students and shall devote no more than twenty five percent (25%) of work time each month during the school year to administrative activities provided that the activities relate to the provision of guidance services.~~

## **5.00 CRITERIA FOR DEVELOPMENT OF A STUDENT SERVICES PLAN BY EACH SCHOOL**

~~Each school within a school district shall develop its own building-based student services plan by a process which includes identification of student services needs by parents, students, teachers, principals, and other agencies with which the school district works such as the Department of Human Services, Department of Health, local law enforcement agencies, and others.~~

## **6.00 ALTERNATIVE STUDENT SERVICES PERSONNEL**

~~6.01 In order to provide the student services required by the Public School Student Services Act, a school district may utilize the following types of personnel in addition to any standard student services personnel:~~

~~6.01.1 Professionals or paraprofessionals in the social work or mental health fields;~~

~~6.01.2 Volunteers under the supervision of certified personnel; and~~

~~6.01.3 Medicaid licensed targeted case managers.~~

~~6.02 Personnel employed under Section 6.01 shall be limited to performing those services for which they are licensed, certified, or trained.~~

## **7.00 MINIMUM STANDARDS FOR STUDENT SERVICES PERSONNEL**

~~7.01 All non-licensed student services personnel shall have:~~

~~7.01.1 In-service training regarding the district's Students Services Plan; and~~

~~7.01.2 Appropriate training by licensed personnel to perform the tasks assigned.~~

~~7.02 Professional and paraprofessional personnel are exempt from Section 7.01.2.~~

## **8.00 DOCUMENTATION OF SERVICES**

~~8.01 Each building-based school site in all school districts shall submit annual reports indicating services provided through the Student Services Plan to the Department of Education. This report shall include an accounting of all services provided by each counselor at a school or local education agency (LEA) on forms provided by the Department of Education.~~



- ~~8.02 Each school counselor shall document spending at least seventy-five percent (75%) of work time each month during the school year providing direct counseling related to students and shall devote no more than twenty-five percent (25%) of work time each month during the school year to administrative activities, provided that the activities relate to the provision of guidance services.~~
- ~~8.03 Each school counselor shall provide a career planning process for each student to include career awareness, employment readiness, career information, and the knowledge and skills necessary to achieve career goals.~~
- ~~8.04 Each school counselor serving students in buildings housing students in grades eight (8) through twelve (12) shall provide a career planning process for each student. During the five-year process, documentation of the information provided must be maintained as to whether the information was discussed with the student in individual or group settings. Each counselor is to develop a form to document these activities which can be a form used district-wide. A copy of the form and a statement of how services were provided must be submitted to the Department of Education as part of the annual report required in section 8.01.~~
- ~~8.05 School counselors shall also encourage parents, during regular parent conferences, to support partnerships in their children's learning and career planning processes.~~

## **9.00 MONITORING OF SERVICES**

- ~~9.01 Regular monitoring activities of the Student Services Plan for each school building site may occur when the Department of Education's Standards Assurance Unit directly monitors schools, when the School Improvement Planning Unit directly assists schools in the Arkansas Consolidated School Improvement Planning process, and when the guidance specialists monitor individual schools on an as-needed basis.~~
- ~~9.02 The superintendent of each school district shall certify annually that each school within the district has a Student Services Plan and a guidance program which implements the Plan in order to meet the requirements of the Arkansas Department of Education Rules Governing Standards for Accreditation of Arkansas Public Schools and School Districts and the Public School Student Services Act, Ark. Code Ann. § 6-18-1001 et seq.~~
- ~~9.03 Pursuant to the Arkansas Department of Education Rules Governing Standards for Accreditation of Arkansas Public Schools and School Districts, a school determined to be in noncompliance with the Public School Student Services Act will be placed in probationary status for lack of a guidance program which involves the implementation of the Student Services Plan. Such status will extend to the first day of the next academic semester.~~

**~~10.00 ANNUAL SCHOOL STUDENT SERVICES STATUS REPORT~~**

- ~~10.01 By January 1, 1994, and each year thereafter, the Department of Education shall compile and present to the Governor, the State Board of Education, the Senate Interim Committee on Education, and the House Interim Committee on Education a report outlining monitoring findings and the status of implementing each of the provisions of the Public School Student Services Act by the various school districts, including which districts are in substantial compliance with the plan required under the Public School Student Services Act.~~
- ~~10.02 The Department of Education shall have in place a staffing structure which assures that the Department of Education's administration and field service staff are responsible for monitoring the department and local school district implementation and compliance with the provisions of the Public School Student Services Act.~~
- ~~10.03 The Department of Education shall employ one (1) or more persons who shall have a minimum qualification of certification as a school counselor.~~
- ~~10.04 Each school district shall be responsible for submitting an annual report, as set forth in section 8.01 of these rules, to the Assistant Commissioner for Learning Services of the Department of Education outlining its compliance with and implementation of plans for the provisions of this section the Public School Student Services Act.~~
- ~~10.05 The Commissioner of Education, in consultation with the appropriate assistant commissioner, shall designate an individual or individuals who shall have a minimum qualification of certification as a school counselor to be responsible for coordinating the monitoring of compliance with the Public School Student Services Act.~~

**~~11.00 IMPLEMENTATION OF THE PUBLIC SCHOOL STUDENT SERVICES ACT~~**

- ~~11.01 The Commissioner of Education shall designate one (1) employee who shall be responsible for overseeing the implementation of the Public School Student Services Act.~~
- ~~11.02 By January 1 of each year, the Department of Education shall compile and present to the Governor, the state board, the House Interim Committee on Education, and the Senate Interim Committee on Education a report outlining the status of implementing each of the provisions of the Public School Student Services Act by the various school districts.~~

SUMMARY OF AMENDMENTS (Repeal)

ARKANSAS DEPARTMENT OF EDUCATION RULES GOVERNING PUBLIC SCHOOL  
STUDENT SERVICES

This proposed rules repeal is the result of Act 190 of 2019, which repealed the Public School Services Act and wholly replaced it with the School Counseling Improvement Act of 2019. The student services plan under the Public School Services Act had become an outdated document focused on compliance. The new law requires districts to have a comprehensive school counseling program, as well as a plan to ensure that comprehensive supports are provided to students. The new law also outlines the role of counselors and requires that 90% of a counselor's time during student contact days is spent providing services to students.

The School Counseling Improvement Act does not provide specific rulemaking authority to the Division of Elementary and Secondary Education. DESE's Division of Learning Services issued a guidance to assist school districts with the implementation of the new law.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

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

**DIVISION** Division of Learning 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 Public School Student Services (REPEAL)

- 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**

General Revenue N/A  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total \_\_\_\_\_

**Next Fiscal Year**

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.