

# ARKANSAS REGISTER

## Transmittal Sheet

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



Secretary of State  
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**For Office**

**Use Only:**

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency \_\_\_\_\_

Department \_\_\_\_\_

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

Statutory Authority for Promulgating Rules \_\_\_\_\_

**Rule Title:** \_\_\_\_\_

**Intended Effective Date**

(Check One)

**Date**

Emergency (ACA 25-15-204) Legal Notice Published ..... \_\_\_\_\_

10 Days After Filing (ACA 25-15-204) Final Date for Public Comment ..... \_\_\_\_\_

Other \_\_\_\_\_ Reviewed by Legislatice Council ..... \_\_\_\_\_  
(Must be more than 10 days after filing date.)

Adopted by State Agency ..... \_\_\_\_\_

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

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.)

*s/Jennifer L. Dedman*

Signature

Phone Number

E-mail Address

Title

Date

**DIVISION OF ELEMENTARY AND SECONDARY EDUCATION**  
**RULES GOVERNING COLLEGE AND CAREER**  
**READINESS PLANNING PROGRAMS**  
**August 2020**

**1.00 REGULATORY AUTHORITY**

- 1.01 These regulations are enacted pursuant to the authority contained in Ark. Code Ann. §§ 6-16-601 et seq., 6-15-2901 et seq., and Act 1083 of 2019.

**2.00 PURPOSE**

- 2.01 The purpose of these rules is to establish guidelines for the implementation of:
- 2.01.1 the Arkansas College and Career Readiness Planning Program; and
  - 2.01.2 Postsecondary preparatory programs in Arkansas.

**3.00 DEFINITIONS**

For purposes of these rules, each term below shall be defined as follows:

- 3.01 “ACT” means the American College Test.
- 3.02 “College and career readiness assessment” means a set of criterion-referenced measurements of a student’s acquisition of the knowledge and skills that the student needs to be successful in future endeavors, including successfully completing credit-bearing, first-year courses at a postsecondary institution and embarking on a chosen career.
- 3.02.1 “College and career readiness assessment” includes any assessment approved by the State Board of Education.
- 3.03 “College and career readiness benchmark” means the minimum score on a college and career readiness assessment in mathematics, English, or reading indicating that a student has a high probability of success in entry level postsecondary education.
- 3.03.1 College and career readiness benchmarks shall be determined jointly by the Arkansas Higher Education Coordinating Board and the State Board of Education.
- 3.04 “Designated College Readiness Course” means a regular instructional course taken during a student’s senior year of high school that is designated by:

- 3.04.1 Local school officials to assist in the improvement of a student’s placement test scores for mathematics, English language arts, or reading; or
- 3.04.2 The Division of Elementary and Secondary Education and the Division of Higher Education as an appropriate course for college readiness.
- 3.05 “Division” means the Division of Elementary and Secondary Education.
- 3.06 “Eligible student” means a public school student in Arkansas who:
  - 3.06.1 Is enrolled in grade eight (8) or enrolled in grades ten through twelve (10-12);
  - 3.06.2 Is identified through a college and career readiness assessment as scoring below a college and career readiness benchmark in mathematics, English, or reading;
  - 3.06.3 Receives the counseling required under Section 4.05 of these rules; and
  - 3.06.4 Desires to enroll in postsecondary education.
- 3.07 “Placement test” means a test for entrance to postsecondary education that is either approved by the State Board of Education, or designated by the Division of Higher Education.
  - 3.07.1 For the purpose of these rules, “Placement test” includes without limitation the ACT.
- 3.08 “Postsecondary preparatory program” means an intensive program approved under these rules that is focused on preparing students for entry-level postsecondary work in the areas of mathematics, English, and reading based on identified needs for college enrollment and placement.

#### **4.00 COLLEGE AND CAREER READINESS PLANNING PROGRAM – IMPLEMENTATION**

- 4.01 Each public school that serves students in grade eight (8) shall administer a college and career readiness assessment approved by the State Board of Education to each student enrolled in grade eight (8) at the public school.
- 4.02 Each public school that serves students in grades ten through twelve (10-12) shall administer a college and career readiness assessment approved by the State Board of Education to each student before the student graduates from high school.

- 4.03 Funding for the college and career readiness assessments listed in Sections 4.01 and 4.02 of these rules may be provided by the Division using at-risk funding or other funds appropriated and authorized for this purpose.
- 4.04 Each public school district shall use the college and career readiness assessments:
  - 4.04.1 To assist students with college and workforce readiness skills, course selection in high school, and improved academic achievement;
  - 4.04.2 To identify students who do not meet the college and career readiness benchmarks in mathematics, English, or reading; and
  - 4.04.3 To provide the basis for the counseling concerning postsecondary preparatory programs as required by Section 4.05 of these rules and Ark. Code Ann. § 6-16-603.
- 4.05 Each public school district shall ensure that every student identified under Section 4.04.2 is counseled by a public school counselor and strongly encouraged to enroll in a postsecondary preparatory program approved under these rules.
- 4.06 The public school district shall make every reasonable effort to involve parents or guardians in student counseling and placement of students.
- 4.07 Each public school shall fully incorporate the results from the college and career readiness assessments into the college and career planning process for each student. The Division shall monitor the utilization of these assessments to ensure public school compliance.

## **5.00 POSTSECONDARY PREPARATORY PROGRAMS – APPROVAL**

- 5.01 No later than May 1 of each year, any of the listed entities may submit to the Division an application for authorization to operate a postsecondary preparatory program in Arkansas:
  - 5.01.1 One or more school districts;
  - 5.01.2 One or more institutions of higher education; or
  - 5.01.3 A partnership of one or more school districts and one or more institutions of higher education.
- 5.02 An application for authorization shall include:
  - 5.02.1 A list of the participating school district(s) or institution(s) of higher education;

- 5.02.2 The number and location of sites at which postsecondary preparatory programs will be offered;
  - 5.02.3 A program description, including identification of the curriculum, content guides, and instructional materials to be utilized;
  - 5.02.4 Staffing and instructor qualifications;
  - 5.02.5 Program schedules;
  - 5.02.6 Guidelines for admission to the postsecondary program, including program eligibility requirements and selection criteria;
    - 5.02.6.1 Admission guidelines should address whether and how the program will admit students in grade twelve (12) under Section 6.03 of these rules;
  - 5.02.7 Disciplinary policies which will govern participants; and
  - 5.02.8 Attendance requirements for participants.
- 5.03 The Division may approve an application for authorization after:
- 5.03.1 Determining that the application meets the criteria established by these rules and Ark. Code Ann. § 6-16-601 et seq.;
  - 5.03.2 Reviewing evidence of the postsecondary preparatory program's past performance and success, as reported under Section 9.00;
  - 5.03.3 Reviewing the postsecondary preparatory program's past compliance with these rules with Ark. Code Ann. § 6-16-601 et seq., and with other relevant state or federal law; and
  - 5.03.4 Giving priority for approval to postsecondary preparatory programs operated by partnerships between one or more school districts and one or more institutions of higher education.
- 5.04 Authorization of an approved postsecondary preparatory program may be for a term defined by the Division of no more than one (1) year.
- 5.05 A postsecondary preparatory program shall not receive authorization under these rules unless the postsecondary preparatory program files an annual application with the Division and the application is approved.
- 5.06 Content guides utilized by a postsecondary preparatory program must be approved by the Division and must:
- 5.06.1 Include the curricular goals in each content area; and

5.06.2 State clearly how the program goals will be met.

5.06.3 Postsecondary preparatory programs may utilize content guides developed by outside parties with the Division's approval.

## **6.00 POSTSECONDARY PREPARATORY PROGRAMS – ENROLLMENT**

- 6.01 An eligible student may enroll in and attend a postsecondary preparatory program at any time between:
- 6.01.1 The first day of school after July 1 of the year in which the student first enters grade eight (8); and
  - 6.01.2 The first day of school after July 1 of the year in which the student first enters grade twelve (12).
- 6.02 An eligible student shall receive priority for enrollment in a postsecondary preparatory program if the eligible student qualifies for free and reduced price meals under the National School Lunch Act, 42 U.S.C. § 1751 et seq., as verified by a signed Free and Reduced Price School Meals Family Application on file with the entity administering the postsecondary preparatory program or by issuance of an Alternate Income Form for special provision schools (e.g., Community Eligibility or Provision 2).
- 6.02.1 If the postsecondary preparatory program is administered by an entity other than the student's home district, the program shall furnish a Free and Reduced Price School Meals Family Application to the student solely for the purpose of determining eligibility under this section.
  - 6.02.2 No public school district, public school, or charter school may disclose any student's eligibility for free and reduced price meals to any other entity, including a public school district or institution of higher education administering a postsecondary preparatory program.
  - 6.02.3 A postsecondary preparatory program may disclose a student's eligibility for free and reduced price meals to the Division.
- 6.03 Notwithstanding the requirements of Section 6.01, if space and funding are available after all eligible students who applied to attend a postsecondary preparatory program are enrolled, the Division may permit a postsecondary preparatory program to enroll a student in grade twelve (12) or a high school graduate if the student or graduate:
- 6.03.1 Scores below college and career readiness benchmarks on a college and career readiness assessment or placement test; and

- 6.03.2 Will enroll in the postsecondary preparatory program no later than three (3) months after graduating from an Arkansas high school.
- 6.04 An eligible student, or a student enrolled under Section 6.03, may enroll in one (1) or more of the curriculum areas in which the student has scored below the college and career readiness benchmark as identified by college and career readiness assessments.

## **7.00 POSTSECONDARY PREPARATORY PROGRAMS – OPERATION**

- 7.01 A postsecondary preparatory program approved under these rules shall:
  - 7.01.1 Provide advice that will better prepare eligible students for entry-level postsecondary work in the areas of mathematics, English, and reading;
  - 7.01.2 Improve diagnostic efforts, counseling, placement, and instruction for eligible students;
  - 7.01.3 Provide intensive remedial instruction to eligible students enrolled in the postsecondary preparatory program in one (1) or more of the following curriculum areas:
    - 7.01.3.1 Mathematics;
    - 7.01.3.2 English; and
    - 7.01.3.3 Reading;
  - 7.01.4 Effectively use college and career readiness assessments to monitor the progress of participants in the postsecondary preparatory program; and
  - 7.01.5 Use innovative teaching and learning strategies that are designed to be effective with participants in the postsecondary preparatory program.
- 7.02 Remedial instruction provided by an approved postsecondary preparatory program shall:
  - 7.02.1 Consist of a minimum of twenty-five (25) hours or more of instruction for each curriculum area offered;
  - 7.02.2 Conform to content guides as approved by the Division of Education, in consultation with the Division of Higher Education;
  - 7.02.3 Conform to individualized plans developed for each student;

- 7.02.4 Be offered in classes containing no less than ten (10) students and no more than fifteen (15) students; and
  - 7.02.5 Be offered on one or more days from Monday through Saturday, during any hours that participants are not required to attend public school.
- 7.03 A postsecondary preparatory program approved under these rules shall use instructors with appropriate content knowledge and specialized training developed by the Division for instructors of developmental education.
- 7.03.1 A postsecondary preparatory program may use an instructor who does not hold an Arkansas teaching license only if the non-licensed instructor works together with an instructor who holds a current Arkansas teaching license.
  - 7.03.2 Instructors must hold one (1) of the following:
    - 7.03.2.1 A current Arkansas secondary teaching license in the field to be taught;
    - 7.03.2.2 A bachelor's degree with an undergraduate major in the field to be taught; or
    - 7.03.2.3 A graduate degree in the field to be taught.
  - 7.03.3 Instructors who will assist students with diagnosed reading problems must hold or be eligible to hold a current Arkansas teaching license with the Reading Specialist or Reading endorsement.
  - 7.03.4 Instructors shall attend scheduled in-service training administered by the Division.
- 7.04 An Arkansas public high school shall award one (1) unit of credit as an elective for successfully completing a postsecondary preparatory program under these rules.
- 7.04.1 The unit of credit awarded under this section shall not count toward the minimum number of credits required by law for high school graduation.

## **8.00 POSTSECONDARY PREPARATORY PROGRAMS – FUNDING**

- 8.01 The Division may provide funding for approved postsecondary preparatory programs from at-risk funding or other funds appropriated and authorized for this purpose.



- 8.01.1 The Division shall give priority for funding to postsecondary preparatory programs operated by partnerships between one or more school districts and one or more institutions of higher education.
- 8.01.2 Funding provided by the Division may be used by a postsecondary preparatory program only for those costs directly related to the proper administration of the program, including without limitation administrative costs, stipends, instructional materials, and site operational costs.
- 8.01.3 Funding provided by the Division may not be used to purchase tangible personal property if the property has:
- 8.01.3.1 A useful life of more than one (1) year; and
  - 8.10.3.2 An acquisition cost of \$300 or more per unit.
- 8.01.4 Any balance of funds provided by the Division and remaining at the conclusion of the program term shall be returned to the Division.
- 8.02 The opportunity to participate in a postsecondary preparatory program under these rules shall not be interpreted as mandating the Division to fund postsecondary preparatory programs at a cost in excess of the funds appropriated and authorized in the Public School Fund for this purpose.
- 8.03 An Arkansas public school district may use Enhanced Student Achievement Funding received under Ark. Code Ann. § 6-20-2305 to operate or support an approved postsecondary preparatory program, subject to the planning and reporting requirements of the Division's Rules Governing the Arkansas Educational Support and Accountability Act (AESAA).
- 8.04 A postsecondary preparatory program shall not receive funding from the Division unless the postsecondary preparatory program files an annual application with the Division and the application is approved.

## **9.00 POSTSECONDARY PREPARATORY PROGRAMS – EVALUATION**

- 9.01 A postsecondary preparatory program approved under these rules shall document evidence of its performance and the success of its participants.
- 9.02 Within ninety (90) days of the end of the approval term specified under Section 5.04 of these rules, each approved postsecondary preparatory program shall submit the following data in a form and manner approved by the Division:

- 9.02.1 The total number of participants and the number of participants in each grade level;
- 9.02.2 The number of participants who were eligible for free and reduced-price meals under the National School Lunch Act;
- 9.02.3 The total number of participants in each curriculum area identified in Section 7.01.3;
- 9.02.4 The progress of participants monitored in the postsecondary preparatory program through the use of college and career readiness assessments;
- 9.02.5 The number of participants who enrolled in the postsecondary preparatory programs and:
  - 9.02.5.1 Scored lower than the statewide minimum scores established by the Arkansas Higher Education Coordinating Board for college placement; or
  - 9.02.5.2 Scored at or higher than the statewide minimum scores established by the Arkansas Higher Education Coordinating Board for college placement;
- 9.02.6 Student-specific data for each individual participant, including:
  - 9.02.6.1 Name, gender, grade level, identification number, and other identification data specified by the Division;
  - 9.02.6.2 Free and reduced lunch status;
  - 9.02.6.3 Curriculum area(s) in which the student enrolled; and
  - 9.02.6.4 Placement test scores;
- 9.02.7 Daily attendance;
- 9.02.8 The final percentage of participants meeting the attendance requirements contained in the program's application;
- 9.02.9 An itemization of the source and amount of all funds expended to support the approved postsecondary preparatory program; and

- 9.02.10 An itemization of the source, payee, amount, and purpose of all expenditures made from funds provided by the Division or by any Arkansas public school district.
- 9.03 The Division of Elementary and Secondary Education, in collaboration with the Division of Higher Education, shall collect and analyze the data reported by approved postsecondary preparatory programs under Section 9.02.
  - 9.03.1 The Division shall store all student data in the Arkansas Public School Computer Network.
  - 9.03.2 The Division shall present its data analysis in the annual school performance reports required by Ark. Code Ann. § 6-15-1402.
- 9.04 The Division shall annually release to the General Assembly the following data by the Division:
  - 9.04.1 The number and type of postsecondary preparatory programs approved;
  - 9.04.2 For each approved postsecondary preparatory program, the public school district(s) and/or institution(s) of higher education operating the postsecondary preparatory programs approved;
  - 9.04.3 The amount of funding the Division distributed to each postsecondary preparatory program; and
  - 9.04.4 The data collected from each approved postsecondary preparatory programs under Section 9.02, after removing any personally identifiable student information as required by the Family Educational Rights and Privacy Act of 1974.
- 9.05 Data collection shall be maintained by the Division for the purpose of:
  - 9.05.1 Increasing college and career readiness skills;
  - 9.05.2 Improving instruction;
  - 9.05.3 Enhancing school improvement plans;
  - 9.05.4 Reducing the college remediation rates of students; and
  - 9.05.5 Developing and implementing postsecondary preparatory programs under these rules.

- 9.06 The Division shall report to the House Committee on Education and the Senate Committee on Education no later than December 31 of each year on the:
- 9.06.1 Implementation and effectiveness of the Arkansas College and Career Readiness Planning Program; and
  - 9.06.2 Statistical analysis of postsecondary preparatory programs under these rules.
  - 9.06.3 The report may be posted on the Division's website with a notification to the Committees.

## **10.00 PLACEMENT TESTS**

- 10.01 An Arkansas public school student enrolled in grade eight (8) or grade ten (10) may take a placement test at no cost to the student at a date, time, and location set by the State Board of Education.
- 10.01.1 Each public school district shall use the placement test scores to identify every student who scores below the statewide minimum scores established by the Arkansas Higher Education Coordinating Board for mathematics, English, or reading.
  - 10.01.2 Each public school district shall ensure that every student identified pursuant to Section 10.01.1 is counseled by a public school counselor and strongly encouraged to enroll in a Designated College Readiness Course.
- 10.02 Each public school district shall ensure that every Arkansas public school student enrolled in grade eleven (11) is advised by a public school counselor of the opportunity under Section 10.03 to take a placement test during grade twelve (12) at no cost to the student.
- 10.03 An Arkansas public school student enrolled in grade twelve (12) may take a placement test at no cost to the student at a date, time, and location set by the State Board of Education if:
- 10.03.1 The student successfully completes a postsecondary preparatory program; and
  - 10.03.2 The student is enrolled in a Designated College Readiness Course.
- 10.04 At the request of a student, the student's placement test score will be made available to and will be accepted by and recognized toward meeting enrollment requirements of state-supported colleges, universities, and postsecondary vocational schools in Arkansas.

- 10.05 Availability of placement tests under Sections 10.01 and 10.03 shall be dependent on the availability of funds appropriated and authorized for that purpose.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

DEPARTMENT \_\_\_\_\_  
DIVISION \_\_\_\_\_  
PERSON COMPLETING THIS STATEMENT \_\_\_\_\_  
TELEPHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_ EMAIL: \_\_\_\_\_

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE**

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

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

Total \_\_\_\_\_

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

Next Fiscal Year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

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

\$ \_\_\_\_\_

\$ \_\_\_\_\_

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.