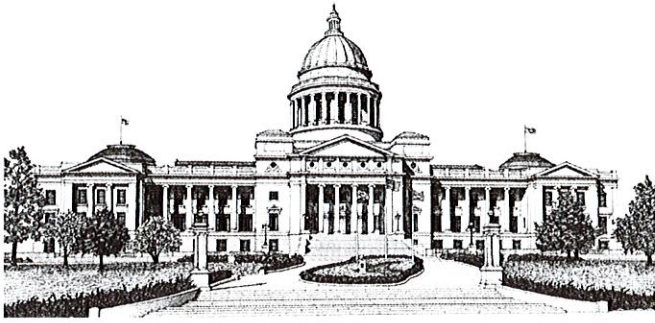


# ARKANSAS REGISTER

## 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 Arkansas Department of Education

Department Division of Elementary and Secondary Education

Contact Courtney Salas-Ford E-mail courtney.salas-ford@arkansas.gov Phone 501-682-4752

Statutory Authority for Promulgating Rules Ark. Code Ann. § 6-11-105

**Rule Title:** Repeal of ADE Rules Governing Special Education and Related Services, Sections 22.00, 23.00, 27.00, and 28.00

**Intended Effective Date**

(Check One)


- Emergency (ACA 25-15-204)
- 10 Days After Filing (ACA 25-15-204)
- Other \_\_\_\_\_  
(Must be more than 10 days after filing date.)

	Date
Legal Notice Published .....	<u>5/8/2020</u>
Final Date for Public Comment .....	<u>6/8/2020</u>
Reviewed by Legislatice Council .....	<u>8/21/2020</u>
Adopted by State Agency .....	<u>7/9/2020</u>

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)  
Courtney Salas-Ford courtney.salas-ford@arkansas.gov 10/12/2020  
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.)

  
 \_\_\_\_\_  
Signature

501-682-4752 courtney.salas-ford@arkansas.gov  
Phone Number E-mail Address

\_\_\_\_\_  
Chief Legal Counsel

\_\_\_\_\_  
Title

10/12/2020  
Date

~~ARKANSAS DEPARTMENT OF EDUCATION-  
SPECIAL EDUCATION AND RELATED SERVICES  
22.0 HOME SCHOOLING  
August 2007~~

~~22.1 These regulations shall be known as Arkansas Department of Education Rules Governing Home Schools.~~

~~22.2 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., 25-15-201 et seq., and Act 824 of 2007.~~

~~22.3 PURPOSE~~

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

~~22.4 DEFINITIONS~~

~~For the purpose of these rules and regulations:~~

~~22.4.1 A "home school" is a school provided by a parent or legal guardian for his or her own child.~~

~~22.4.2 A "testing window" is an established testing calendar as determined by the Arkansas Department of Education.~~

~~22.4.3 "Alternate testing procedures" refers to any testing date(s) and/or location(s) within the testing window and approved by the education service cooperatives and Pulaski County school districts for home school students.~~

~~22.4.4 "A norm-referenced test (NRT)" is any testing instrument required by state law, rule or regulation to measure the performance/achievement of Arkansas students relative to the performance of the achievement of students who comprise the norming or standardization group for a particular commercial instrument.~~

~~22.4.5 An "individualized education program (IEP)" is a written record of decisions reached between parent/guardian and school personnel jointly describing the educational program for a child with a disability.~~

~~22.4.6 "Current school year" is the official period of time for pupil/teacher interaction within the school district policy which~~

follows the requirements in Ark. Code Ann. § 6-10-106 (Repl. 1993) (Uniform dates for beginning and ending a school year).

## ~~22.5 — GENERAL~~

- ~~22.5.1 — Under Arkansas law children between the ages of five (5) and seventeen (17) on or before September 15 of that year, in accordance with Ark. Code Ann. § 6-18-201 (Supp. 1997), as amended by Act 570 of 1999 must attend school.~~
- ~~22.5.2 — A parent/guardian who intends to home school a child in accordance with Ark. Code Ann. § 6-18-201 [as amended] must enroll the child in a home school at the beginning of each school year but no later than August 15 for the fall semester, or by December 15 for the spring semester, or, subject to the provisions of Sections 4.03 and 4.04, fourteen (14) calendar days prior to withdrawing. The superintendent or local school board may waive the fourteen (14) day waiting period.~~
- ~~22.5.3 — 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 4.04.~~
- ~~22.5.4 — Public school students who are under disciplinary action by the local school district shall be eligible for enrollment in a home school if:~~
- ~~22.5.4.1 — The superintendent or local school board chooses to allow the child to enroll in a home school;~~
  - ~~22.5.4.2 — The disciplinary action against the student has been completed or at the end of a school semester, whichever occurs first; or~~
  - ~~22.5.4.3 — The student has been expelled.~~
- ~~22.5.5 — Parent/guardian may elect for a child, who will not be kindergarten age in accordance with Ark. Code Ann. § 6-18-201, [as amended], not to attend kindergarten by filing a Kindergarten Waiver form with the local school district office.~~
- ~~22.5.6 — 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 new Notice of Intent and Waiver forms are completed and returned to the local school district.

- 22.5.7 — Home school students who are in the required grade levels for which the state mandates norm-referenced testing and who are no more than two (2) years beyond the normal age for the required grade levels must take a standardized norm-referenced test as identified by the Arkansas Department of Education, and the results will be used for reporting purposes only.
- 22.5.8 — Any student who refuses to participate in the required testing program shall be subject to the applicable Arkansas laws regarding truancy. This Section shall not be applicable to any parent that can present written acknowledgement that their child has been enrolled in a public, private or parochial school within thirty (30) days of the administration of the state-mandated tests.
- 22.5.9 — Books, curricula or materials are not required to be furnished by the Arkansas Department of Education, local school district or education service cooperative. It is the responsibility of the parent/guardian to purchase all books, curricula or materials that they use in home schooling.

## 22.6 — NOTICE OF INTENT

- 22.6.1 — Parents or Guardians who plan to home school must file written notice by completing and returning the printed current year Notice of Intent and Waiver forms to the public school superintendent's office of their local school district by August 15 for the beginning of each school year, or by December 15 for the spring semester, or, subject to the provisions of Sections 4.03 and 4.04, fourteen (14) calendar days prior to withdrawing the child from the local school district during the school year. Parents or guardians must sign a waiver acknowledging that the State of Arkansas is not liable for the education of their child(ren) during the time that parent chooses to home school. The Notice of Intent and Waiver forms are 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. There are no exceptions to these filing requirements except as outlined in § 20.06.2.
- 22.6.2 — Parents or guardians moving into a school district during the school year must file the current year printed Notice of Intent and Waiver forms with their local public school superintendent's office within thirty (30) calendar days of establishing residency within the district.

~~22.6.3 — The required Notice of Intent and Waiver forms must be the printed current year forms obtained from your local superintendent's office and must include the following information for reporting and test administration purposes only:~~

~~22.6.3.1 — The name, date of birth and grade level of each child and the name and address of the public, private, home school or parochial school last attended, if any, for each student.~~

~~22.6.3.2 — The location of the home school (mailing address).~~

~~22.6.3.3 — A brief description of the basic core curriculum to be used and the subjects to be taught.~~

~~22.6.3.4 — Schedule of instruction to be followed (hours per day; days per week; number of weeks).~~

~~22.6.3.5 — The education qualifications of the parent/guardian/teacher(s).~~

~~22.6.3.6 — Parents or guardians shall deliver written notice in person to the superintendent of their local school district the first time such notice is given.~~

## ~~22.7 TESTING REQUIRED — ACHIEVEMENT TESTS~~

~~22.7.1 — Test administration of home school students shall be under the direction of the education service cooperatives and the Pulaski County school districts. Achievement testing will be held during the testing window identified by the Arkansas Department of Education.~~

~~22.7.2 — The education service cooperatives and Pulaski County school districts will ensure that all test materials are secure before testing, between and following test administration and provide the Arkansas Department of Education, for approval by the Director, with a common set of procedures for test administration of home school students in the required grade levels. These common set of procedures must include security measures to ensure that appropriate testing conditions and protocol have been followed as specified in the test administration materials.~~

~~22.7.3 — Each student enrolled in home school who is considered to be in the required grades or no more than two (2) years beyond the age~~

~~appropriate grade will be tested by using the State identified norm-referenced achievement test.~~

~~22.7.4 — Parents/guardians or groups of home school parents/guardians requesting alternate testing procedures, protocols, locations and/or timeframe must be submitted in writing three (3) weeks prior to the testing window to the education service cooperatives or the Pulaski County school districts and testing must remain within the State identified testing dates. If approved, alternate testing procedure costs, other than the testing materials, shall be the responsibility of the parent/guardian.~~

~~22.7.5 — Alternate testing procedures and protocol will be arranged by the education service cooperatives and Pulaski County school districts.~~

~~22.7.6 — Requests from parent/guardian whose child(ren) cannot test on Saturdays due to religious reasons will be accommodated. Parent/guardians must indicate in the appropriate section at the time they file their Notice of Intent that their child(ren) cannot test on Saturdays due to religious reasons.~~

## ~~22.8 — TEST RESULTS~~

~~Test results for home school students will be used for reporting purposes only. The parent/guardian will receive the individual student profile. The Arkansas Department of Education will receive the administrative summaries. The administrative summaries will not contain personally identifiable information.~~

## ~~22.9 — TRANSFER OF STUDENTS~~

~~22.9.1 — Students transferring from a home school to a school which is accredited by the Arkansas Department of Education shall be evaluated by the staff of the accredited school to determine proper placement. As part of the ongoing assessment process, a State identified norm referenced achievement test shall be one of the instruments utilized.~~

~~22.9.2 — Home Schools are not accredited by the Arkansas Department of Education. There are no grades, credits, transcripts or diploma provided by the Arkansas Department of Education, education service cooperative or by the local school district for students enrolled in home school.~~

~~22.9.3 — Any home school student who re-enters a local school district must attend classes for at least nine (9) months immediately prior to~~

~~graduation before the student can become eligible to receive a high school diploma from the local school district.~~

## ~~22.10 STUDENTS WITH DISABILITIES~~

~~22.10.1 By way of these regulations, it shall be the policy of the State Board of Education that school districts provide a genuine opportunity (see 34 C.F.R. Sec. 76.651(a)) to students who are home-schooled with disabilities, as defined in state regulations, to access special education and related services from the district where they reside. This policy is not to be construed as conferring the procedural protections and rights under Part B of the Individuals with Disabilities Education Act (IDEA) to such students and their parent/guardians.~~

~~22.10.2 Each student with disabilities in the required grades who participates in the norm-referenced testing program shall, upon notification in the application for testing, be eligible for any or all modifications allowed by the test procedures. The use of such modifications will be approved by the educational services-cooperative director or his designee.~~

## ~~22.11 DRIVER'S PERMIT/LICENSE~~

~~A student enrolled in a home school shall present proof of home schooling in the form of a notarized copy of the Notice of Intent along with an application for an instructional permit or driver's license. The parent/guardian has the responsibility of providing the notarized copy.~~

~~ARKANSAS DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND RELATED SERVICES  
23.0 ARKANSAS COMPREHENSIVE TESTING, ASSESSMENT AND  
ACCOUNTABILITY PROGRAM AND THE ACADEMIC DISTRESS PROGRAM  
October 9, 2006~~

~~23.1 Regulatory Authority~~

~~23.1.1 These Rules shall be known as the Arkansas Department of Education Rules Governing the Arkansas Comprehensive Testing, Assessment and Accountability Program (ACTAAP).~~

~~23.1.2 The State Board of Education promulgated these Rules pursuant to implementation of A.C.A. §§ 6-11-105, 6-15-431, 6-15-437, 25-15-201 and Act 2243 of the 85<sup>th</sup> Arkansas General Assembly.~~

~~23.2 Purposes of Rules~~

~~23.2.1 To develop a single comprehensive testing, assessment and accountability program, which applies to and governs all public schools and public school districts in Arkansas.~~

~~23.2.2 To develop a single comprehensive testing, assessment and accountability program which utilizes the most current and effective testing, evaluation and assessment research information designed to achieve the following:~~

~~23.2.2.1 Clear academic standards that are periodically reviewed and revised;~~

~~23.2.2.2 Professional development standards for all administrators, teachers and instructional support personnel;~~

~~23.2.2.3 Expected achievement levels;~~

~~23.2.2.4 Reporting on student achievement and other indicators;~~

~~23.2.2.5 School and school district evaluation data;~~

~~23.2.2.6 A system of sanctions and rewards based on performance of schools and school districts; and~~

~~23.2.2.7 Compliance with current federal and state law and State Board of Education policies.~~



- ~~23.3 To ensure that all students in the public schools of Arkansas have an equal opportunity to demonstrate grade level academic proficiency through the application of knowledge and skills in the core academic subjects consistent with state curriculum frameworks, performance standards and assessments.~~
- ~~23.4 To improve student learning and classroom instruction and to support high academic standards for all students, including identifiable subgroups, by establishing the provisions, procedures and requirements for the student assessment program.~~
- ~~23.5 To require point in time intervention when it is determined that a student(s) is not performing at grade level.~~
- ~~23.6 To outline testing and assessment security and confidentiality requirements.~~
- ~~23.7 To establish a program to identify, evaluate, assist and advise public school districts in academic distress.~~
- ~~23.8 Definitions For the purpose of these Rules, the following terms mean:~~
- ~~23.8.1 “Academic Content Standards” a series of documents that specify what a student enrolled in an Arkansas Public School should know and be able to do. These Academic Content Standards also provide the foundation for development of the State assessment system.~~
- ~~23.8.2 “Academic Distress” a classification assigned to any public school district in which 75% or more of its students perform at the “below basic” performance level on the criterion referenced assessments administered in that district.~~
- ~~23.8.3 “Academic Improvement Plan” a plan detailing supplemental or intervention and remedial instruction, or both, in deficient academic areas for any student who is not proficient on the state mandated criterion referenced assessments and state mandated developmental appropriate assessments for K-2 (or delayed as that term is defined in “Uniform Readiness Screening”).~~
- ~~23.8.4 “Adequate Yearly Progress” the level of academic performance required of public schools or school districts on the state mandated criterion referenced assessments and/or other indicators as required in the ACTAAP, which shall comply with State and Federal law.~~
- ~~23.8.5 “Alternative Education Intervention Program” A special instructional program for students who have been retained for two~~

consecutive years. The program shall include research-based learning opportunities and instructional strategies.

- ~~23.8.6~~ — ~~“Approved Early Reading Assessments”~~ — Those assessments that identify students’ strengths and weaknesses in all of the elements of reading as described in the Report of the National Reading Panel.
- ~~23.8.7~~ — ~~“Approved Intensive Reading Program”~~ — Programs of high-quality instruction that include the essential elements of reading described in the Report of the National Reading Panel.
- ~~23.8.8~~ — ~~“Arkansas Comprehensive Assessment Program”~~ — means the testing component of Arkansas Comprehensive Testing, Assessment and Accountability Program, which shall consist of developmentally appropriate assessments for kindergarten, Grades one and two, national norm-referenced tests in Grades 3 through 9, any other assessments as required by the State Board of Education, criterion-references tests for Grades 3 through 8, or other assessments which are based on researched best practices as determined by qualified experts which would be in compliance with federal and state law, End of Course tests for designated grades and content areas, and the high school literacy test.
- ~~23.8.9~~ — ~~“Arkansas Comprehensive Testing, Assessment and Accountability Program”~~ — means a comprehensive system that focus on high academic standards, professional development, student assessments, and accountability for all schools.
- ~~23.8.10~~ — ~~“Arkansas Comprehensive School Improvement Plan (ACSIP)”~~ — a plan developed by a local school team based on an analysis of student performance data and other relevant data that provides a plan of action to address deficiencies in student performance as evidenced in the Arkansas Comprehensive Assessment Program as defined in Section 3.08. This plan shall be reviewed annually and monitored at least every two years. Components of the plan include professional development, technology, and materials and resources necessary to carry out the activities of the plan. Additionally, this plan shall become the application for all instructional federal programs as administered by the Department of Education.
- ~~23.8.11~~ — ~~“Awards”~~ — financial or other recognition of a public school structured to recognize schools that demonstrate and maintain high performance over time and to recognize schools that demonstrate growth on the state-mandated indicators. Awards also can be used

to highlight individual schools so that their practices can be adopted in other schools and districts across the state.

- 23.8.12 ~~“Benchmarks/Grade Level Benchmarks”~~ Academic Content Standards and/or grade level statements of what a student should know and be able to do. The Grade Level Benchmarks provide guidance to classroom teachers in planning instruction aligned with the Academic Content Standards.
- 23.8.13 ~~“Board”~~ The Arkansas State Board of Education.
- 23.8.14 ~~“Criterion Referenced Test (CRT)”~~ an assessment required by state statute, rule or regulation which is designed by the State to measure student performance/achievement on the State’s Academic Content Standards.
- 23.8.15 ~~“Department”~~ The Arkansas Department of Education.
- 23.8.16 ~~“District Improvement Plan”~~ a compilation of the individual school improvement plans which align the district’s resources to meet the needs of the individual school’s plans. The main focus of the district improvement plan shall be to ensure that all students have an opportunity to demonstrate proficiency on all portions of state mandated criterion referenced assessments.
- 23.8.17 ~~“Early Intervention”~~ a short term, intensive, focused individualized instruction developed from ongoing, daily, systemic assessment that occurs while a child is in the initial, kindergarten through grade one (K-1), stages of learning.
- 23.8.18 ~~“Elementary School”~~ public school(s) having some combination of grades kindergarten through four (K-4).
- 23.8.19 ~~“End of Course Test”~~ an assessment taken at the completion of a course of study to determine whether a student demonstrates attainment of the knowledge and skills necessary for proficiency in that course.
- 23.8.20 ~~“Essential Elements – Early Reading”~~  
Comprehension—Understanding and remembering what is read  
Decoding and Word Recognition (Phonics)—Recognizing words accurately, fluently, and independently  
Fluency—Ability to read text accurately, quickly and with expression  
Phonemic Awareness—Ability to hear and manipulate the sound structure of language

Vocabulary—Words that must be known to communicate effectively

- 23.8.21—~~“Grade Level”—performance of a student (or group of students) at the proficient level on benchmark assessments at the specified grade that is age appropriate for that student(s).~~
- 23.8.22—~~“High School”—public school(s) having some combination of grades 9—12.~~
- 23.8.23—~~“Intensive Reading Improvement Plan (IRI)”—An intervention program for any K-2 student identified with substantial reading difficulties.~~
- 23.8.24—~~“Longitudinal Tracking”—means tracking individual student yearly academic achievement gains based on scheduled and annual assessments.~~
- 23.8.25—~~“Middle School”—public school(s) having some combination of grades five through eight (5—8).~~
- 23.8.26—~~“Norm Referenced Test (NRT)”—an assessment required by state law, rule or regulation to measure the performance/achievement of Arkansas students relative to the achievement of students who comprised the norm or standardization group for a particular commercial instrument.~~
- 23.8.27—~~“Participation in Remediation” The amount of student involvement required in a student academic improvement plan that addresses those deficiencies for that student.~~
- 23.8.28—~~“Pass Rate”—The pass rate for the Benchmark Exams and the developmental appropriate assessments for K—2 shall be proficiency. However, the pass rate for end-of-course and high school literacy shall be those scores established and independently approved by the State Board of Education. (See 6.03 for the proficiency definition)~~
- 23.8.29—~~“Public School District/Public School”—those school districts and schools (including open-enrollment charter schools) created pursuant to Title 6 of the Arkansas Code and subject to the Arkansas Comprehensive Testing, Assessment and Accountability Program except specifically excluding those schools or educational programs created by or receiving authority to exist pursuant to §6-15-501, §9-28-205, and §12-29-301 through §12-29-310, or other provisions of Arkansas law.~~

- ~~28.08.30~~ — ~~“Remediation”~~ — a process of providing corrective, specialized supplemental instruction to help a student overcome academic deficiencies pursuant to their student academic improvement plan.
- ~~23.8.31~~ — ~~“Safe Harbor”~~ — An alternate method of demonstrating Adequate Yearly Progress under the No Child Left Behind Act determined by decreasing the percent of students not performing at the proficient level on the Criterion Referenced Assessments by at least ten percent. Safe Harbor can only be applied if the school meets the secondary indicator condition and tests 95% or more of eligible students.
- ~~23.8.32~~ — ~~“Sanction”~~ — intervention by the state to assist teaching and learning at a public school or a public school district that fails to meet expected performance goals on the state mandated criterion-referenced assessments and/or other indicators.
- ~~23.8.33~~ — ~~“School Improvement”~~ — the initial classification applied to a school that fails to meet adequate yearly progress for two successive years.
- ~~23.8.34~~ — ~~“Starting Point”~~ — a specific figure for grade level clusters K-5, 6-8, and 9-12 in the content areas of literacy and mathematics which was derived by determining the school at the 20th percentile in the state based on total enrollment, among all schools ranked by the percentage of students at the proficient level, using data for the 2001-2002 school year or subsequent year for which there is a recalculation.
- ~~23.8.35~~ — ~~“Secure Examination or Assessment”~~ — an assessment instrument, materials or other student achievement evaluation method required by State statute, rule or regulation that is administered to assess student performance or achievement and takes place on the dates specified on the testing/assessment calendar developed by the Commissioner of the Department.
- ~~23.8.36~~ — ~~“Substantial Reading Deficiency”~~ — a determination for first and second grade students who score in the Below Basic Category on the State Reading Assessment in the previous school year and for kindergarten students who are rated as Delayed in both oral communication and written language on the Uniform Reading Scale (URS).
- ~~23.8.37~~ — ~~“Uniform Readiness Screening”~~ — uniform, objective evaluation procedures specifically formulated for children entering public

school for the first time that are intended for either kindergarten or first grade, as appropriate, and developed or adopted by the Board.

~~23.8.38 — “Value Added Computations of Student Gains” — statistical analyses of the educational impact of the school’s instructional delivery system on individual student learning using a comparison of previous and post student achievement gains.~~

## ~~23.9 — Academic Content Standards~~

~~23.9.1 — The Board shall establish clear, specific, challenging academic content standards, which define what students shall know and be able to do in each content area.~~

~~23.9.2 — The Board shall establish a schedule for periodic review and revision of academic content standards to ensure Arkansas academic content standards are rigorous and equip students to compete in the global workforce. For each review, the Department will provide the following:~~

~~23.9.2.1 — Study and consideration of academic content standards from across the nation and international levels as appropriate;~~

~~23.9.2.2 — Study and consideration of evaluations from national groups or organizations as appropriate;~~

~~23.9.2.3 — Committees composed of Arkansas teachers and instructional supervisory personnel from public schools, assisted by teachers from institutions of higher education;~~

~~23.9.2.4 — Review and input by the Departments of Higher Education and Workforce Education as well as community members; and~~

~~23.9.2.5 — Public dissemination of revised academic content standards on the Department Website.~~

~~23.10 — The Board shall provide for external review of revised standards by nationally recognized content experts in the discipline/area under consideration.~~

~~23.11 — The Board shall establish a clear, concise system of reporting the academic performance of each school on the state’s mandated criterion-referenced assessments and the norm-referenced assessments, which conform to current state and federal law.~~

~~23.12 Each local school/school district shall engage in a procedure that will assure that the academic standards for every level—grades kindergarten through twelve (K-12) are aligned and education and financial resources are aligned with student performance expectations at each level.~~

~~23.13 Arkansas Comprehensive Assessment Program~~

~~The Board shall establish a statewide assessment system for Grades K through 12 to be implemented in each public school in the State by the Department. All districts shall comply with the requirements of the assessment system. Failure to do so shall result in a recommendation to the Board for Probationary status or loss of accreditation as set out in the Standards for Accreditation, or for other intervention or sanction as allowed or required by these rules, state or federal law. Local district school boards shall not establish school calendars that jeopardize or limit the valid testing and comparison of student learning gains.~~

~~23.14 Kindergarten, Grade One and Grade Two~~

~~23.14.1 The Board shall adopt and the Department shall implement a developmentally appropriate, uniform school readiness screening to validate a child's school readiness as part of a comprehensive evaluation decision. Beginning with the 2004-2005 school year and thereafter, the Department shall require that all school districts administer the uniform school readiness screening instrument to each kindergarten student in the district prior to or upon the entry into kindergarten. Children who enter public school for the first time in first grade must be administered the uniform school readiness screening instrument as modified for use in first grade to determine placement.~~

~~23.14.2 Kindergarten, Grades 1 and 2: The Department shall select a developmentally appropriate assessment to be administered to all students in kindergarten, Grades one (1) and two (2) in reading and mathematics.~~

~~23.15 Criterion-Referenced Tests—Grades three through eight and high school~~

~~23.15.1 The Department shall develop and implement criterion-referenced assessments as follows: (1) Grades three (3) through eight (8) which measure application of knowledge and skills in reading and writing literacy and mathematics and science in Grades 5 and 7; (2) End-of-Course testing in Algebra I, geometry and Biology I (Biology begins in 2007-2008); (3) High school literacy that measures application of knowledge and skills in reading and writing literacy; and (4) social studies as funds are available and approved by the State Board of Education.~~

- ~~23.15.2 — All criterion-referenced assessments shall be based on the Arkansas Curriculum Frameworks and Academic Content Standards.~~
- ~~23.15.3 — All students in Grades 3–8 as well as all students enrolled in courses for which End-of-Course assessments are administered, shall take the criterion-referenced assessments on the testing dates established by the Department. This requirement includes the high school literacy assessment. This authority shall include field testing and any other requirements needed to establish fully-developed assessment instruments and methodologies.~~
- ~~23.15.4 — Each school district shall administer criterion-referenced assessments to its students according to procedures established by the Commissioner of Education and specified in the applicable assessment administration materials.~~
- ~~23.15.5 — Accounting for Students with Disabilities and Limited English Proficient Students~~
- ~~23.15.5.1 — Each student in the specified grades shall participate as outlined in the test coordinator’s handbook. A student shall participate in the Arkansas Alternate Assessment Program only upon the formal determination of:~~
- ~~A. — The student’s individual education program (IEP) committee, as documented in the student’s individual educational program; or~~
- ~~23.15.5.2 — The Individual Education Program (IEP) committee shall determine whether or not participation in the standard state assessment program is appropriate for students with IEPs. Students with disabilities for whom it is deemed inappropriate to take the standard state assessments (Benchmarks and End-of-Course) with the established accommodations shall participate in the Arkansas Alternate Assessment Program following the guidelines established by the Board.~~
- ~~23.15.5.3 — Scores for students with disabilities shall be reported with other assessment results from the school.~~



~~23.15.5.4 — LEP students shall participate in all required criterion-referenced assessments. LEP students may access state-approved accommodations provided such accommodations have been recommended by the language proficiency assessment committee and are used regularly in classroom instruction and assessment.~~

~~23.15.5.5 — LEP students with less than one year in a U.S. school will not be required to take the State required literacy benchmark test or the High school literacy test. Districts may exercise this option. LEP students must take the appropriate mathematics test.~~

#### ~~23.16 — Norm-Referenced Assessments~~

~~23.16.1 — The Board shall adopt a norm-referenced test to be administered in Grade 3 through Grade 9 in mathematics and reading, which shall be administered by the Department annually.~~

~~23.16.2 — Each school district shall administer the norm-referenced assessments to its students according to procedures established by the Department and specified in the applicable test administration materials.~~

~~23.16.3 — The Department shall establish mandatory training sessions for local-district testing coordinators and other appropriate school personnel to ensure understanding of the norm-referenced assessments, proper administration of assessments, security, and effective use of the assessment reporting data to improve classroom instruction and learning.~~

#### ~~23.17 — National Assessment of Educational Progress~~

~~23.17.1 — Selected schools shall participate in any or all components of the National Assessment of Educational Progress (NAEP).~~

~~23.17.2 — Any school that fails to participate in the administration of any NAEP assessment shall be reported to the Board and may be subject to probationary status as set out in the Standards for Accreditation.~~

## ~~23.18 Test Administration~~

- ~~23.18.1 The Department shall establish mandatory training sessions for local district testing coordinators and other appropriate school personnel to ensure understanding of the administration of assessments and effective use of assessment reporting data to improve classroom instruction and learning to provide program evaluation;~~
  - ~~23.18.2 The superintendent or his/her designee in each school district shall be responsible for coordinating all local assessment activities including:~~
  - ~~23.18.3 Scheduling testing times of all affected campuses according to the testing calendar developed by the Department;~~
  - ~~23.18.4 Ensuring that security is maintained as specified in the appropriate testing administration materials;~~
  - ~~23.18.5 Ensuring that all district personnel involved in the testing have been properly trained as specified by the Department;~~
  - ~~23.18.6 Ensuring that all testing instruments are administered to all students according to the procedures established by the Commissioner of Education;~~
  - ~~23.18.7 Ensuring that all assessment documents and student identification information are properly and accurately coded; and~~
  - ~~23.18.8 Attesting whether ALL students have participated in the appropriate grade level assessment(s).~~
  - ~~23.18.9 Recommending for adoption by local school boards a school calendar that in no way jeopardizes or limits the valid testing and comparison of students' learning gains.~~
  - ~~23.18.10 The appropriate test administration materials shall specify any allowable accommodations available to students participating in the administration of standard state assessments.~~
  - ~~23.18.11 All students enrolled in a State tested grade shall be accounted for in the State Assessment System.~~
- ~~23.19 A Technical Advisory Committee composed of nationally recognized testing experts and psychometricians shall be selected by the Commissioner of Education and shall advise the Department in all technical aspects of the assessment system.~~

## ~~23.20 Security and Confidentiality~~

~~23.20.1 Violation of the security or confidential integrity of any assessment is prohibited.~~

~~23.20.2 The Board shall sanction a person who engages in conduct prohibited by this section, as provided under Arkansas Code §6-17-405 and following the Process for Certificate Invalidation as approved by the Board. Additionally, the Board may sanction a school district and/or school in which conduct prohibited in this section occurs.~~

~~23.20.3 Procedures for maintaining the security and confidential integrity of all assessment instruments and procedures shall be specified in the appropriate test administration instructions. Conduct that violates the security or confidential integrity of an assessment is defined as any departure from either the requirements established by the Commissioner of the Department for the administration of the assessment or from the procedures specified in the applicable test administration materials. Conduct of this nature may include, but is not limited to the following acts and omissions:~~

~~23.20.3.1 Viewing secure assessment materials;~~

~~23.20.3.2 Duplicating secure assessment materials;~~

~~23.20.3.3 Disclosing the contents of any portion of secure assessment materials;~~

~~23.20.3.4 Providing, suggesting, or indicating to an examinee a response or answer to any secure assessment items;~~

~~23.20.3.5 Aiding or assisting an examinee with a response or answer to any secure assessment item;~~

~~23.20.3.6 Changing or altering any response or answer of an examinee to a secure assessment item;~~

~~23.20.3.7 Failing to follow the specified testing procedures or to proctor students;~~

~~23.20.3.8 Failing to administer the assessment on the designated testing dates;~~

~~23.20.3.9 — Encouraging or assisting an individual to engage in the conduct described in this subsection;~~

~~23.20.3.10 — Failing to report to appropriate authority that an individual has engaged in conduct set forth in this section;~~

~~23.20.3.11 — Failing to follow the specified procedures and required criteria for alternate assessments; or,~~

~~23.20.3.12 — Failing to return the secured test booklets back to the testing company in a timely manner.~~

~~23.20.4 — The superintendent of each school district shall develop procedures to ensure the security and confidential integrity of all assessment instruments and test items. The superintendent shall be responsible for immediately notifying the Department in writing of conduct that violates the security or confidential integrity of an examination or assessment.~~

#### ~~23.21 — Student Performance Levels~~

~~23.22 — The Board shall establish four (4) performance levels for each criterion-referenced assessment administered as part of ACTAAP. The Board shall establish five (5) performance levels for the Alternate Assessment for Students with Disabilities as part of ACTAAP. Those performance levels shall be not evident, emergent, supported independence, functional independence, and independent. Performance levels shall be established for mathematics, reading/language arts and science independently. Additionally, the Board shall establish a pass rate for each end-of-course and high school literacy assessment.~~

~~23.23 — The Board shall establish four (4) performance levels for Grades K-2 for the norm-referenced assessment administered as part of the Arkansas Comprehensive Assessment Program for reading and mathematics. The following numerical scores define those performance levels:~~

Mathematics Norm-Referenced Assessment standard score cut scores*				
Grade	Below-Basic	Basic	Proficient	Advanced
<del>K</del>	<del>0-120</del>	<del>121-128</del>	<del>129-136</del>	<del>137-400</del>
<del>1</del>	<del>0-134</del>	<del>135-146</del>	<del>147-159</del>	<del>160-400</del>
<del>2</del>	<del>0-148</del>	<del>149-164</del>	<del>165-181</del>	<del>182-400</del>

~~\*Lowest possible standard score value is 80~~

Reading Norm-Referenced Assessment standard score cut scores*				
Grade	Below Basic	Basic	Proficient	Advanced
K	0-119	120-127	128-137	138-400
1	0-136	137-145	146-158	159-400
2	0-153	154-165	166-182	183-400

\*Lowest possible standard score value is 80

23.24 The following numerical scores define the performance levels on the criterion-referenced assessments and on the Students with Disabilities Alternate Assessment for not evident, emergent, supported independence, functional independence and independent. Functional independence and independent are considered to be grade level.

Mathematics Criterion Referenced Assessments (Benchmarks) raw score points				
Grade	Below Basic	Basic	Proficient	Advanced
3	0-22	23-39	40-56	57-80
4	0-31	32-44	45-60	61-80
5	0-30	31-42	43-60	61-80
6	0-29	30-45	46-60	61-80
7	0-27	28-37	38-56	57-80
8	0-29	30-38	39-59	60-80

Literacy Criterion Referenced Assessments (Benchmarks) raw score points				
Grade	Below Basic	Basic	Proficient	Advanced
3	0-47	48-64	65-79	80-96
4	0-41	42-63	64-79	80-96
5	0-38	39-61	62-80	81-96
6	0-43	44-68	69-82	83-96
7	0-42	43-64	65-79	80-96
8	0-46	47-63	64-80	81-96

Mathematics Alternate Assessment Students with Disabilities raw score points					
Grade	Not-Evident	Emergent	Supported-Independence	Functional-Independence	Independent
3	0-431	432-517	518-530	531-573	574-600
4	0-426	427-522	523-535	536-563	564-600
5	0-413	414-523	524-539	540-575	576-600
6	0-437	438-533	534-551	552-573	574-600
7	0-469	470-539	540-559	560-574	575-600
8	0-505	506-552	553-569	570-577	578-600

Literacy Alternate Assessment Students with Disabilities raw score points					
Grade	Not-Evident	Emergent	Supported-Independence	Functional-Independence	Independent
3	0-387	388-436	437-490	491-533	534-540
4	0-399	400-447	448-493	494-527	528-540
5	0-340	341-420	421-491	492-527	528-540
6	0-302	303-420	421-485	486-515	516-540
7	0-311	312-420	421-487	488-513	514-540
8	0-327	328-448	449-501	502-514	515-540
End of Course Geometry					End of Course Algebra I
Performance Standards					Performance Standards
Advanced		250 & above		Advanced	250 & above
Proficient		200-249		Proficient	200-249
Basic		154-199		Basic	151-199
Below Basic		153 & below		Below Basic	150 & below
Literacy (High school)					
Performance Standards					
Advanced					250 & above
Proficient					200-249
Basic					169-199
Below Basic					168 & below

~~23.25 Student Accountability~~

~~23.26 By the year 2013-2014 all students are expected to perform at the proficient level or above.~~

~~23.27 Beginning with the 2005-2006 school year, a) students identified as failing to achieve at the proficient level on the State 2004-2005 or any subsequent mandated CRT (as referenced in Section 6.03 tables: Mathematics Criterion Referenced Assessments, Benchmarks, raw score points and Literacy Criterion Referenced Assessments, Benchmarks, raw score points, etc.); b) students in Grade K scoring delayed on either written language or oral communications and scoring delayed in mathematics on the state mandated uniform readiness screening (as referenced in Sections 3.36 and 3.37 Uniform Readiness Screening); and c) students in Grades 1 and 2 not scoring proficient on the state mandated NRT (as referenced in Section 6.02 tables, Mathematics Norm Referenced Assessment standard score cut scores and Reading Norm Referenced Assessment standard score cut scores), shall be evaluated by school personnel, who shall jointly develop, a remediation plan with the student's parents. The remediation plan (AIP or if appropriate IRI) will assist the student in achieving the expected standard and will describe the parent's role and responsibilities as well as the consequences for the student's failure to participate in the plan.~~

~~23.27.1 The AIP shall be prepared using the format designed by the Department of Education. However, the local school may adjust the format as deemed necessary.~~

~~23.27.2 The AIP shall be developed cooperatively by appropriate teachers and/or other school personnel knowledgeable about the student's performance or responsible for the remediation in consultation with the student's parents. An analysis of student strengths and deficiencies based on test data and previous student records shall be available for use in developing the Plan. The plan shall be signed by the appropriate school administrator and the parent/guardian.~~

~~23.27.3 The AIP should be flexible, should contain multiple remediation methods and strategies, and should include an intensive instructional program different from the previous year's regular classroom instructional program. Examples of strategies and methods include, but are not limited to, computer assisted instruction, tutorial, extended year, learning labs within the school day, Saturday school, double blocking instruction in deficient areas during the school day, extended day etc.~~

- ~~23.27.4~~ — The AIP shall include formative assessment strategies and shall be revised periodically based on results from the formative assessments.
- ~~23.27.5~~ — The AIP shall include standards-based supplemental/remedial strategies aligned with the child's deficiencies.
- ~~23.27.6~~ — A highly qualified teacher and/or a highly qualified paraprofessional under the guidance of a highly qualified teacher shall provide instructional delivery under the AIP.
- ~~23.27.7~~ — The AIP should contain an implementation timeline that assures the maximum time for remedial instruction.
- ~~23.27.8~~ — AIPs should be individualized; however, similar deficiencies based on test data, may be remediated through group instruction.
- ~~23.27.9~~ — In any instance where a student with disabilities identified under the Individuals with Disabilities Education Act has an Individualized Education Program (IEP) that already addresses any academic area or areas in which the student is not proficient on state-mandated criterion-referenced assessments, the individualized education program shall serve to meet the requirement of an AIP.
- ~~23.28~~ — Retention for failure to participate in the Academic Improvement Plan
- ~~23.28.1~~ — School districts shall notify parents, guardians or caregivers of remediation requirements and retention consequences for failure to participate in the required remediation at the beginning of the 2004-2005 school year. Beginning with the 2005-2006 school year, this information shall be included in the student handbook.
- ~~23.28.2~~ — Beginning with the 2005-2006 school year, students in Grades three through eight, identified for an AIP who do not participate in the remediation program shall be retained. The local district shall determine the extent of the required participation in remediation as set forth in the student academic improvement plan.
- ~~23.28.3~~ — Remedial instruction provided during high school years (Grades 7—12) may not be in lieu of English, mathematics, science or social studies, or other core subjects required for graduation.
- ~~23.28.4~~ — Any student who does not score at the Proficient level on the criterion-referenced assessments in reading, writing and mathematics shall continue to be provided with remedial or



supplemental instruction until the expectations are met or the student is not subject to compulsory school attendance.

~~23.28.5 — Any student that has an AIP and fails to remediate, but scores at the Proficient level on the criterion-referenced assessments, shall not be retained.~~

~~23.28.6 — Beginning in the 2005-2006 school year, students not proficient on the End-of-Course tests or on the high school Literacy test, shall participate in a remediation program to receive credit for the corresponding course.~~

~~23.28.7 — Beginning with the 2009-2010 school year, students who fail to meet the pass rate on the end-of-course assessments shall not receive credit for the course until at least one of the following conditions are met. Any student failing to meet one of these conditions shall not be entitled to graduate with a high school diploma from an Arkansas high school or charter school.~~

~~23.28.7.1 — The student is identified as meeting a satisfactory pass level on a subsequent end-of-course assessment.~~

~~A. — No student that is identified as having failed to meet the satisfactory pass levels on an initial end-of-course assessment shall be entitled to take more than three (3) additional subsequent end-of-course assessments. ADE will determine annually the schedule for administration of additional assessments.~~

~~B. — Prior to a student taking additional end-of-course assessments, the student shall be given a sufficient opportunity and time for remediation.~~

~~23.28.7.2 — The student is identified as having, by the end of grade twelve (12), finished an appropriate Alternate exit course and is identified as having met a satisfactory pass level on an Alternate assessment directly related to the Alternate exit course.~~

~~A. — Any student that fails to pass the end-of-course assessment after three additional attempts shall be required to take and pass~~

~~an Alternate exit course and meet a satisfactory Alternate level score on a subsequent Alternate assessment.~~

~~B. Alternate exit courses may be offered through a distance learning class and may be offered outside the normal school day.~~

~~23.28.7.3 The student is identified as a student with disabilities who, because of the nature of the disabilities, cannot meet the requirements. In such case that student may graduate from high school by demonstrating alternate competencies or Alternate levels of competency as contained in the student's individualized education program.~~

~~23.29 The results of End of Course assessments shall become a part of each student's transcript or permanent record. Each course for which a student completes the assessment shall be recorded with the performance level (advanced, proficient, basic or below basic).~~

~~23.30 The Department shall implement a statistical system that shall provide the best analysis of classroom, school, and school district effects on student progress based on established, value added longitudinal calculations, which shall measure the difference in a student's previous year's achievement compared to the current year achievement for the purposes of improving student achievement, accountability, and recognition.~~

~~23.31 The approach used by the Department shall be in alignment with federal statutes and developed in 2004-2005 to collect data to allow research and evaluation of student achievement growth models.~~

~~23.32 The approach shall include value added longitudinal calculations with sufficient transparency in the model's conception and operation to allow others in the field to replicate the results.~~

~~23.33 Reading Deficiency for Students in Kindergarten through Grade Two~~

~~23.33.1 Beginning with the 2005-2006 school year, any student who exhibits a substantial reading deficiency shall be provided intensive reading instruction utilizing a scientifically based reading program. The intensive instruction shall systematically, explicitly, and coherently provide instruction in the five essential elements of reading as defined in Section 3.20.~~

- ~~23.33.2 — During the 2005-2006 school year, the State Board of Education shall establish performance levels for kindergarten, Grade 1 and Grade 2 that define substantial difficulties in reading based on the State-mandated, developmentally appropriate assessment. The State-mandated Uniform Screening Readiness (USR) instrument shall be used to determine substantial reading difficulty for kindergarten students.~~
- ~~23.33.3 — Beginning with the 2005-2006 school year, all kindergarten students exhibiting substantial difficulties in reading will be evaluated by school personnel for the purpose of diagnosing specific reading difficulties. This evaluation will occur within 30 days of receiving the USR results.~~
- ~~23.33.4 — Beginning with the 2005-2006 school year, within 30 days of the beginning of school, Grade 1 and Grade 2 students exhibiting substantial difficulties in reading will be evaluated by school personnel for the purpose of diagnosing specific reading difficulties. However, in those school years in which the State Board of Education shall revise the performance levels schools shall be allowed 30 days from the date of the final approval to conduct the evaluation.~~
- ~~23.33.5 — The evaluation shall include the Dynamic Indicators of Basic Early Literacy Skills (DIBELS).~~
- ~~23.33.6 — Beginning with the 2005-2006 school year, school personnel shall develop an intensive reading Improvement plan (IRI) that describes the intervention program for any student identified with substantial reading difficulty. The IRI shall be developed cooperatively by appropriate teachers and/or other school personnel knowledgeable about the student's performance or responsible for remediation.~~
- ~~23.33.7 — The IRI shall contain an implementation timeline that assures the maximum time for remedial instruction. The intervention shall occur during the regular school day whenever possible, but may include extended day when appropriate. The intervention shall supplement, and not supplant, core classroom instruction.~~
- ~~23.33.8 — The IRI shall include valid and reliable progress monitoring assessments to measure student growth toward the grade level benchmarks in each essential element of reading.~~

- ~~23.33.9 — The intensive reading instruction provided under the IRI shall utilize strategies that are aligned with scientifically-based reading research.~~
- ~~23.33.9.1 — The intensive instruction shall systematically, explicitly and coherently provide instruction in the five essential areas of reading. The intensity and focus of the instruction shall be based on the evaluation results, teacher observation, and data from progress monitoring assessments. The intervention plan shall be revised periodically to reflect student needs as indicated on progress monitoring assessments.~~
- ~~23.33.9.2 — The IRI should be individualized; however, similar deficiencies may be remediated through group instruction.~~
- ~~23.33.9.3 — A highly qualified teacher and/or a highly qualified paraprofessional under the guidance of a highly qualified teacher shall provide instruction under the IRI.~~
- ~~23.33.9.4 — The intervention shall continue until the child has reached grade level benchmarks in all essential areas of reading.~~
- ~~23.33.10 — Student achievement in each of the essential elements shall be monitored monthly after students complete the intervention. Students who are not meeting current expectations shall be provided additional interventions.~~
- ~~23.33.11 — In any instance where a student with disabilities identified under the Individuals with Disabilities Act has an IEP that already addresses reading deficiencies, the individual education program shall serve to meet the requirements of the IRI.~~
- ~~23.34 — The parent or guardian of any student identified with a substantial reading deficiency shall be notified in writing to include the following:~~
- ~~23.34.1 — That the child has been identified as having a substantial deficiency in reading;~~
- ~~23.34.2 — A description of the current services that are provided to the child; and,~~

~~23.34.3 — A description of the proposed supplemental instructional services and supports that will be provided to the child that are designed to remediate the identified area of reading deficiency.~~

### ~~23.35 School Accountability~~

~~23.35.1 — The Department of Education shall provide analyses of data produced by the Arkansas Comprehensive Assessment Program and other reliable measures of student learning to determine classroom, school, and school district academic performance.~~

~~23.35.2 — Student performance trend data shall be one of the components used in developing objectives of the school improvement plan, internal evaluations of instructional and administrative personnel, assignment of staff, allocation of resources, acquisition of instructional materials and technology, performance based budgeting, and assignment of students into educational programs of the local school program.~~

~~23.35.3 — Each school shall develop one (1) Arkansas Comprehensive School Improvement Plan (ACSIP) focused on student achievement. This requirement is intended to focus the school/school district annually on the school's performance data for the purposes of improved student performance, based on data and the performance of students on the state assessment system.~~

~~23.35.4 — The purpose of ACSIP is to provide equal opportunity for all students, including identifiable subgroups, to meet the expected performance levels established by the Board on all State assessments.~~

~~23.35.5 — Consistent with the No Child Left Behind Act, each school must make adequate yearly progress (AYP), based primarily on the administration of the criterion referenced assessments described in Section 5.02. In order to make AYP, a school or school district must —~~

~~23.35.5.1 — Demonstrate that at least 95 percent of all students and of students in each applicable subgroup, as provided in Section 8.06, at the tested grade levels, participated in the assessments;~~

~~23.35.5.2 — Meet or exceed the annual measurable performance levels described in Section 904.5, based on the percentages of students scoring proficient or above on the assessments, overall and for each applicable~~

subgroup; or alternatively, if the total group or any subgroup does not meet the annual measurable performance levels, demonstrate that the percentage of students in that subgroup who did not meet the proficient level for that year decreased by 10 percent of that percentage from the preceding school year and that the subgroup made progress on one additional academic indicator; and

~~23.35.5.3~~ Show progress for all students on an additional academic indicator, which shall be graduation rate for high schools and percent attendance for elementary and middle schools.

~~23.35.6~~ The following subgroups must be included in the school/school district data disaggregation:

~~23.35.6.1~~ Students with Disabilities

~~23.35.6.2~~ Students who are English Language Learners

~~23.35.6.3~~ Economically Disadvantaged Students

~~23.35.6.4~~ Ethnic Subgroups

~~A.~~ Caucasian

~~B.~~ African American

~~C.~~ Hispanic

~~23.35.7~~ A school must meet AYP criteria overall and for each of these subgroups that meets the minimum group size as determined by the Department of Education and approved by the U.S. Department of Education.

~~23.35.8~~ The Department will determine AYP separately for mathematics and literacy, using appropriate statistical treatments. Based on the single statewide starting point described in this section, annual performance levels assure that ALL students will reach proficient by school year 2013-2014.

~~23.35.9~~ The Department will determine for each school in the state the percent of students performing at the proficient or advanced levels. This percentage will be determined by computing the sum of students proficient or advanced for the current year or the most

~~recent three years across each grade for which there is a criterion-referenced assessment. That sum is divided by the total number of students assessed for that year or across those three years and grades. This number shall include students taking alternate assessments. The percentage shall be determined separately for mathematics and reading/literacy.~~

~~23.35.10 — The AYP starting point regarding percent proficient on state assessments will be determined for grade level clusters K-5; 6-8; and 9-12 and separately for mathematics and reading/literacy.~~

~~23.35.11 — The AYP starting point will be determined by ranking each school within the grade level by the percent proficient. Additionally, the ranking will include the total student enrollment for those grades using October 1, 2002, data or October 1 of a subsequent year for which there is a recalculation.~~

~~23.35.12 — The Department will determine the school that contains the 20<sup>th</sup> percent student of total enrollment — starting from the school with the lowest percent proficient and counting upward. The percent proficient of that school becomes the “starting point” for determining AYP for that grade level cluster and content area.~~

~~23.35.13 — The following table establishes the starting point and projected performance level for each year of the twelve years addressed by the No Child Left Behind Act.~~

Calculating AYP and Annual Expected Performance Levels

K-5 Math	K-5 Literacy	6-8 Math		6-8 Literacy		9-12 Math	9-12 Literacy
Year-05-06	40.00	42.40	29.10	35.20	29.20	35.50	
Year-06-07	47.50	49.60	37.96	43.30	38.05	43.56	
Year-07-08	55.00	56.80	46.83	51.40	46.90	51.63	
Year-08-09	62.50	64.00	55.69	59.50	55.75	59.69	
Year-09-10	70.00	71.20	64.55	67.60	64.60	67.75	
Year-10-11	77.50	78.40	73.41	75.70	73.45	75.81	
Year-11-12	85.00	85.60	82.28	83.80	82.30	83.88	
Year-12-13	92.50	92.80	91.14	91.90	91.15	91.94	
Year-13-14	100.00	100.00	100.00	100.00	100.00	100.00	

~~23.35.14~~ — Each year, in determining whether a school has met the target of percent proficient for that school year as listed on the chart, the Department shall compare the school's percent proficient in the appropriate grade-level cluster and content area with the statewide projected goal for that year. A school shall be deemed to have met AYP for a particular year for a particular grade-level cluster and content area as long as the school attains at least the statewide projected goal.

~~23.35.15~~ — Schools/School Districts failing to meet expected performance standards as established by the Board shall be subject to sanctions as specified in school improvement or academic distress.

~~23.35.16~~ — Schools/School Districts exemplifying exceptional performance levels and/or growth patterns shall be recognized for exemplary performance and will be eligible to participate in the rewards program.

~~23.36~~ — Accountability

~~Schools failing to meet Adequate Yearly Progress as determined under these Rules shall be classified subject to the following consequences.~~



- ~~23.36.1 — A school will be identified in alert status if it has not made AYP in the same subject (Mathematics or Literacy) for one year.~~
- ~~23.36.2 — A school will be identified as in Improvement Status if it has not made AYP in the same subject (Mathematics or Literacy) for two consecutive years.~~
- ~~23.36.3 — A school in Alert Status or Improvement Status that fails to make AYP, but does not fail to make AYP in the same subject for two consecutive years, will remain in its existing status for the following school year.~~
- ~~23.36.4 — The first year a school fails to meet expected performance levels, that school shall be classified as on Alert Status. Any school classified on Alert Status shall be required to review and/or revise the school's ACSIP Plan with special attention given to State-designated subgroup(s) which failed to meet expected performance levels.~~
- ~~23.36.5 — The local school board president and the superintendent of a public school or school district identified by the Department in school improvement shall be notified in writing by the Department, via certified mail, return receipt requested, and the school district shall have a right to appeal to the Commissioner of the Department. The written appeal must be received in the Office of the Commissioner of Education within thirty (30) calendar days of the receipt of notice.~~
- ~~23.36.6 — The second year a school fails to make Adequate Yearly Progress, that school shall be classified as Year 1 of School Improvement. Any school classified in Year 1 of School Improvement shall offer eligible students choice options to another school in the district not in school improvement.~~
- ~~23.36.7 — The third year a school fails to make Adequate Yearly Progress, that school shall be classified as Year 2 of School Improvement. Any school classified in Year 2 of School Improvement shall offer eligible students supplementary educational services in keeping with federal guidelines in addition to continued consequences from Year 1 of School Improvement.~~
- ~~23.36.8 — Should a school fail to make Adequate Yearly Progress in the fourth year, the Board shall advance that school into corrective action. Schools in corrective action must continue to offer consequences from School Improvement Year 2 and the school~~

must implement a plan, with the approval of the Department, having specified corrective actions.

~~23.36.9 — Should a school fail to make Adequate Yearly Progress in the fifth year, the Board shall advance that school into restructuring. In restructuring the Department may require the school to dismiss staff and administrators, annex the school to another school that is not in school improvement, and/or take other such action as deemed necessary by the Department and the Board.~~

~~23.36.10 — Once a school has been identified in school improvement, that school must meet the standard(s) for which it failed to meet for two consecutive years to be considered for removal.~~

~~23.36.11 — Schools that receive Title I funds must meet all funding requirements as specified by federal guidelines. Schools that do not receive Title I funds must implement programming in keeping with the school's ACSIP Plan as revised.~~

~~23.36.12 — Beginning with the 2006-2007 school year, schools designated in year three, four or five school improvement shall participate in a scholastic audit conducted by the Department of Education (or its designees).~~

~~23.36.12.1 — Results of the scholastic audit shall be presented to the superintendent within four (4) weeks of completing the scholastic audit. The audit shall make recommendations to improve teaching and learning for inclusion in the comprehensive school improvement plan.~~

~~23.36.13 — School Performance Rating System~~

~~23.36.13.1 — The Department of Education will establish a working task force during the 2004-2005 school year to assist in the development of the rating system. The task force shall include educators, parents, and business/community stakeholders. In order to keep the rating system reliable and valid, a Technical Advisory Committee composed of nationally recognized accountability experts, statisticians, and psychometricians shall be selected by the Commissioner of Education and shall advise the Department in all technical aspects of the accountability system. The rating system shall include the establishment of a performance level~~

and an improvement level. The improvement level shall be assigned in the 2007-2008 school year and the performance level shall be assigned no later than the 2009-2010 school year. The ADE will implement a pilot system of performance levels required by A.C.A. § 6-15-1903, at least one (1) year prior to the year of implementation required by law. The performance level designations may be applied to any school district requesting to be classified by such performance designations as allowed by A.C.A. § 6-15-1903 (b) (1).

~~23.36.14~~ — Performance Category Levels

~~23.36.14.1~~ — The Department of Education shall prepare an annual report, which shall describe the school rating system. The annual report shall designate two (2) category levels for each school. The first category, annual performance, is based on the performance from the prior year on the criterion-referenced test and end-of-course exams. The second category, growth, shall be based on the schools' improvement gains tracked longitudinally and using value-added calculations on the criterion-referenced assessment

~~23.36.14.2~~ — The initial annual report shall identify schools as being in one (1) of the following annual performance category levels, based on the criterion-referenced Benchmark exams, as defined in 6-15-404(g) (1), and defined according to rules of the State Board of Education:

- A. — “Level 5”, schools of excellence;
- B. — “Level 4”, schools exceeding the standards;
- C. — “Level 3”, schools meeting the standards;
- D. — “Level 2”, schools on alert; or
- E. — “Level 1”, schools in need of immediate improvement.

~~23.36.15~~ — For the years 2004-2005 through 2008-2009, school will not be assigned annual school performance category levels, unless an annual performance category levels is requested by the school.

~~23.36.16 — Annual School Performance Rating: Weighted Average Approach~~

~~23.36.16.1 — Since the ACTAAP testing program in Arkansas was designed as a criterion-referenced assessment system with performance standards, the standards for student performance can be used to develop a rating index of school performance.~~

~~23.36.16.2 — Numerical values to be used as weighting factors can be assigned to each student's performance category (Advanced = 4; Proficient = 3; Basic = 2; Below Basic = 1)~~

~~23.36.16.3 — With these weights assigned to the performance levels, a performance index for the school can be computed by multiplying the weights of the performance levels times the number of students scoring in the performance category.~~

~~23.36.16.4 — The sum of the weighted student performance for each subject and grade in the school is divided by the total number of students testing the subjects and grades. The resulting average for the school is an index of performance that will range between 1.0 and 4.0.~~

~~23.36.17 — Achievement Rating Weighted Average Approach~~

~~23.36.17.1 — Assigned the following points:~~

- ~~• 4 points per student scoring in the advanced category;~~
- ~~• 3 points per student scoring in the proficient category;~~
- ~~• 2 points per student scoring in the basic category;~~
- ~~• 1 point per student scoring in the below basic category.~~

~~Points = Number of student scoring in category X  
points assigned to categories~~

23.36.17.2 — Example

Number of Students	Scoring Category	Points Assigned to Categories	Total
10	Advanced	4	40
30	Proficient	3	90
40	Basic	2	80
20	Below Basic	1	20
Total points for the school for all categories			230

23.36.18 — Achievement Rating: Weighted Average Approach Calculation

23.36.18.1 — To calculate the rating score for each school, divide the total point for the school by the number of students in the school.

Points Received	Number of Students	Rating
230	100	2.3

23.36.18.2 — At the direction of the state board, a panel of stakeholders was convened to review the statewide performance of schools and conduct the standard setting process. In the school standard setting process, stakeholders representing administrators, teachers, business, parents, and school board members served as panelists to decide on the quality level represented by various points within the distribution of school index scores. The state board reviewed and adopted the following standards recommended by the stakeholder’s advisory panels for the annual performance rating.

Standard Setting Recommendations Stakeholder Advisory Panels				
Cut Scores	Cut 1/2	Cut 2/3	Cut 3/4	Cut 4/5
Administrators	1.7	2.19	2.76	3.02
Teachers	1.6	2.25	3.0	3.5
Business	1.735	2.145	2.7	3.365
Parents	1.75	2.2	2.65	3.0
School Board	1.81	2.30	2.87	3.30
Median	1.735	2.2	2.755	3.300
Average	1.719	2.21	2.79	3.23

23.36.18.3 — After the rating score has been calculated for each school, schools may calculate their annual

performance level by locating the established performance standard (cut score) for placing each school in one of five performance categories.

23.36.18.4 — In the example below, if the rating score of the school is between 3.5 and 4.0, it will be in the “schools of excellence” performance category level.

Expert Panel Cut Scores	Performance Categories
3.23 — 4.0	Schools of excellence
2.79 — 3.22	Schools exceeding the standards
2.21 — 2.78	Schools meeting standards
1.719 — 2.20	Schools approaching the standards (alert)
1.0 — 1.718	Schools in need of immediate improvement

23.36.18.5 — The second category, growth, available in 2007–2008, shall be based on the schools’ improvement gains tracked longitudinally and using value-added calculations on the criterion-referenced assessment. The working taskforce shall continue to assist in the rating system during the establishment of the second category.

23.36.19 — School Choice

23.36.19.1 — For all schools that have received an annual performance category levels of Level 1 for two (2) consecutive years, the students in these schools shall be offered the opportunity public school choice option with transportation provided pursuant to A.C.A. § 6-18-227 et seq.

23.36.20 — Supplemental Educational Services

23.36.20.1 — In addition, the school district board shall provide supplemental educational services, approved by the State Board, to affected students.

23.36.21 — Recognition Awards

23.36.21.1 — Schools that receive an annual performance category level of Level 5 or Level 4 are eligible for school recognition awards and performance-based funding pursuant to A.C.A. § 6-15-1907.

~~23.36.22 — Sanctions~~

~~23.36.22.1 — Any school or district that is involved in substantiated test security violations will not be eligible to receive the “school of excellence” performance rating.~~

~~23.37 — School District Accountability~~

~~23.37.1 — The Department annually reviews each district to determine whether it is making AYP in the following way.~~

~~23.37.1.1 — Determine the collective status for all the schools within a district within each grade level grouping (k-5; 6-8 and 9-12)~~

~~23.37.1.2 — Determine the district percent of participation across each grade level group~~

~~23.37.1.3 — Determine the district status on secondary indicator across each grade level group.~~

~~23.37.1.4 — A district shall be in school improvement when all levels within a district fail to meet performance standards for two consecutive years in the same subject. A district having status of School Improvement shall be removed from that status when any one level meets the performance standard for two consecutive years in that subject.~~

~~23.37.2 — Before identifying a district for district improvement, the Department will provide the district with an opportunity to review the data on which the identification is based. The district may appeal the identification, and the Department will decide the appeal within 30 days.~~

~~23.37.3 — Each district identified for school improvement shall within three months of identification develop or revise a district improvement plan that complies with the requirements of the No Child Left Behind Act, including the requirement that it spend not less than 10% of its Part A, Title I funds on professional development for each fiscal year in which the district is identified for improvement. The district shall initiate implementation of the plan expeditiously, but not later than the beginning of the next school year after the school year in which the district was identified for improvement. The Department will provide technical assistance to districts in~~

developing and implementing improvement plans under this section.

~~23.37.4 — Academic Distress — Procedures for Identification, Classification and Appeal of School Districts in Academic Distress~~

~~23.37.4.1 — A school district for which 75% or more of the students completing the state's assessments perform at the below basic level shall be designated in Academic Distress. This computation shall collectively include students from each school in the district and from each grade for which a criterion-referenced assessment is given.~~

~~23.37.4.2 — Within thirty calendar days (30) after the release of the state assessment results by the Department, the Department shall identify all school districts in Academic Distress and shall notify in writing each school district superintendent and board president via certified mail, return receipt requested.~~

~~23.37.4.3 — A school district may appeal a determination of the Department identifying the district as an Academic Distress school district by filing an appeal in writing in the Office of the Commissioner of the Department within (30) calendar days after receiving the notification, justifying why the district should not be identified as being in Academic Distress.~~

~~23.37.4.4 — The Board shall render a written decision of a classification on a district's appeal of identification as an Academic Distress school district within sixty (60) calendar days of the district's written request.~~

~~23.37.4.5 — The decision of the Board shall be final with no further right of appeal, except a school district may appeal to the Circuit Court of Pulaski County pursuant to the Administrative Procedures Act, A.C.A. §25-15-201 et seq.~~

~~23.37.5 — Time Limitation of Academic Distress Status~~

~~23.37.5.1 — A public school district identified as in academic distress shall have no more than two (2) consecutive school years beginning on July 1 following the date~~



~~of notice of identification to be removed from academic distress status.~~

~~23.37.5.2 — The Board may at any time take enforcement action on any school district in academic distress status including, but not limited to, annexation, consolidation, or reconstitution of a school district pursuant to A.C.A. § 6-13-1401 et seq.~~

~~23.37.5.3 — If a public school district fails to be removed from academic distress status within the allowed two (2)-year time period, the Board shall annex, consolidate or reconstitute the academic distress school district prior to July 1 of the next school year unless the Board, at its discretion, issues a written finding supported by a majority of the board, explaining in detail that the school district could not remove itself from academic distress during the relevant time period due to external forces beyond the school district's control.~~

~~23.37.6 — Procedures for assisting school districts in academic distress~~

~~23.37.6.1 — Within thirty (30) calendar days of classification by the State Board, each Academic Distress school district shall develop and file with the Department a modified Comprehensive School Improvement Plan to target and address any area in which the district is experiencing academic distress.~~

~~23.37.6.2 — Within fifteen (15) calendar days of classification by the State Board, the Department shall assign a team of educators to evaluate the district and determine the need for on-site technical assistance.~~

~~23.37.6.3 — The team of educators shall evaluate and make recommendations to the district superintendent within sixty (60) calendar days following the district's classification as an Academic Distress school district.~~

~~23.37.6.4 — School districts classified as Academic Distress shall provide access to all district assessment, instruction, personnel and academic records and reports to assist the team in the formulation of the recommendations for improvement.~~

~~23.37.6.5 — The Department with assistance from the team of educators shall review the data relative to the academic status and performance of students in the Academic Distress school district.~~

~~23.37.6.6 — Following the on-site review, the team of educators will submit a written set of recommendations to the Academic Distress school district.~~

~~23.37.6.7 — The Department shall provide relevant technical assistance to each identified school district based upon the needs identified in the Comprehensive School Improvement Plan.~~

~~23.37.8 — Procedures for evaluating and removal of school districts from academic distress status~~

~~23.37.8.1 — The Department shall review and annually report to the Board the academic conditions existing in each Academic Distress school district and determine whether the district is making progress and has fewer than 75% of the students performing in the below basic performance level.~~

~~23.37.8.2 — A school district designated in Academic Distress shall be removed from Academic Distress only if fewer than 75% of the students perform below basic for two consecutive years.~~

#### ~~23.38 — Board Authority~~

~~23.38.1 — The Board shall have the following authority regarding any public school district in academic distress:~~

~~23.38.1.1 — Require the superintendent of the school district to relinquish all authority with respect to the district, to appoint an individual to administratively operate the district under the supervision of the Commissioner of the Department, with the cost to be paid from school district funding;~~

~~23.38.1.2 — Suspend or remove some or all of the current board of directors and call for the election of a new school board for the school district in which case the school district shall reimburse the county board of~~

~~election commissioners for election costs as otherwise required by law.~~

- ~~23.38.1.3 — Allow the school district to operate without the local school board under the supervision of the local school district administration or an administration chosen by the Commissioner of the Department.~~
- ~~23.38.1.4 — Waive the application of Arkansas law, with the exception of the Teacher Fair Dismissal Act of 1983, A.C.A. § 6-17-1501 et seq., and the Public school Employee Fair Hearing Act, A.C.A. § 6-17-1701 et seq., or Department Rules.~~
- ~~23.38.1.5 — The Board has exclusive jurisdiction to determine the boundary lines of the receiving or resulting school district and to allocate assets and liability of the district.~~
- ~~23.38.1.6 — Require the annexation, consolidation, or reconstitution of the public school district.~~
- ~~23.38.1.7 — Take any other necessary and proper action as determined by the Board that is allowed by law.~~
- ~~23.38.1.8 — After providing thirty (30) calendar days written notice, via certified mail return receipt requested, to a school district, the Department may petition the Board or the Board on its own motion, at any time, may take action pursuant to 11.0 as allowed by Act 1467 of 2003, in order to secure and protect the best interest of students in the public school district or to secure and protect the best interest of the educational resources of the state.~~
- ~~23.38.1.9 — The School District shall have a right of appeal to a public hearing before the Board after filing a written notice of appeal with the office of the Commissioner of the Department at least thirty (30) calendar days prior to the appeal hearing.~~
- ~~23.38.1.10 — The State Board shall consolidate, annex or reconstitute a school district that fails to remove itself from the classification of a school district in academic distress within two (2) consecutive school years of receipt of notice of identification unless the~~

~~Board, at its discretion, issues a written finding supported by a majority of the Board, explaining in detail that the school district could not remove itself from academic distress due to impossibility caused by external forces beyond the school district's control.~~

~~23.38.1.11 — After a public hearing, the Board shall consolidate, annex, or reconstitute the school district in academic distress to another non-academic distress school district upon a majority vote of a quorum of the members of the Board as permitted or required by this subchapter.~~

~~23.38.1.12 — The Board's classification of a school district in Academic Distress shall be final except that the school district shall have a right of appeal to the Circuit Court of Pulaski County pursuant to the Arkansas Administrative Procedures Act, A.C.A. § 25-15-201 et seq.~~

#### ~~23.39 School Choice and Academic Distress~~

~~23.39.1 — Any student attending a public school district classified as being in academic distress shall automatically be eligible and entitled pursuant to A.C.A. § 6-18-206, the "Arkansas Public School Choice Act", to transfer to another geographically contiguous school district not in academic distress during the time period a district is classified as being in academic distress, and therefore, not be required to file a petition by July 1 but shall meet all other requirements and conditions of the Arkansas Public School Choice Act.~~

~~23.39.2 — The cost of student transportation to the nonresident district shall be borne by the resident district.~~

~~23.39.3 — The nonresident district shall count the student for average daily membership purposes.~~

~~ARKANSAS DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND RELATED SERVICES  
27.0 ARKANSAS DEPARTMENT OF EDUCATION RULES AND REGULATIONS  
GOVERNING CHARTER SCHOOLS~~

~~27.1 REGULATORY AUTHORITY~~

~~27.1.1 — These regulations shall be known as the Arkansas Department of Education Regulations Governing Charter Schools.~~

~~27.1.2 — The State Board of Education enacted these regulations pursuant to its authority under Act 890 of 1999.~~

~~27.2 PURPOSE OF REGULATIONS~~

~~27.2.1 — The purposes of these regulations are to implement Act 890 of 1999 and to establish the requirements and procedures for the application of a charter school, for monitoring a school once it has been granted a charter by the State Board of Education, and for disbursing funds to a charter school.~~

~~27.3 DEFINITIONS~~

~~For the purpose of these rules and regulations:~~

~~27.3.1 — “Debt” is defined as a financial obligation incurred by a charter school, which is due in more than 365 days.~~

~~27.3.2 — “Average daily membership (ADM)” is defined as the total number of days attended plus the total number of days absent by students during the first three (3) quarters of each school year, divided by the number of school days actually taught in the school during that period of time.~~

~~27.3.3 — “Local Board” means a board of directors exercising the control and management of a public school district and in addition for the purposes of these regulations a local board refers to the board of directors of the school district where the charter school will be physically located.~~

~~27.3.4 — “Public school district in which enrollment is likely to be affected” is defined as the school districts in the geographical area surrounding the proposed open enrollment charter school from which students are likely to be drawn across district lines for enrollment in the charter school.~~

~~27.3.5~~ — “Application” is defined as the document presented to the State Board of Education requesting to enter into a charter that describes the school and provides all of the information required by law and the Arkansas Department of Education. The term application shall be synonymous with the term petition, and the terms are interchangeable throughout these regulations and Act 890 of 1999.

~~27.3.6~~ — “Letter of Intent” is defined as a written notice submitted to the Department of Education charter school office that a public school district or an eligible entity intends to file a charter school application. Such letter of intent shall be submitted on forms provided by the Department of Education.

#### ~~27.4~~ — OBSERVANCE OF ANTI-DISCRIMINATION LAWS

~~27.4.1~~ — All charter schools shall observe all anti-discrimination law, both federal and state.

~~27.4.2~~ — For the purposes of the Individuals with Disabilities Education Act (IDEA) and these rules and regulations, all charter schools are responsible for ensuring that the requirements of IDEA are met.

~~27.4.3~~ — For the purposes of Section 504 of the Rehabilitation Act and these rules and regulations, all charter schools are responsible for ensuring that the requirements of Section 504 are met.

#### ~~27.5~~ — APPLICATION PROCESS, SCHEDULE, FORMS AND TECHNICAL ASSISTANCE

~~27.5.1~~ — A procedure for establishing a charter school, which shall include a calendar of requirements and application form, shall be published by the Department of Education, as approved by the State Board of Education. The dates in the calendar of requirements shall be strictly followed.

~~27.5.2~~ — Application forms and other documents needed for the charter school application process shall be provided by the Department of Education.

~~27.5.3~~ — Requests for technical assistance shall be made to the Department of Education charter school office.

~~27.5.4~~ — A public school district is only eligible to apply for a conversion charter school.

~~27.6 CONVERSION CHARTER SCHOOL APPLICATION APPROVAL PROCEDURES~~

~~27.6.1 Each charter applicant must submit to the Department of Education charter school office a letter of intent sent by certified mail on or before the established deadline.~~

~~27.6.2 Each charter applicant shall prepare an application that describes the elements of the applicant's plan for establishing a conversion charter school. The application shall be on a form provided by the Department of Education. Technical assistance in preparing the application may be requested from the Department of Education charter school office.~~

~~27.6.3 The application shall be reviewed by the local board of the public school district requesting to convert an existing public school to a charter school. The local board shall vote to approve or disapprove the application and prepare written findings. The results of the vote and the written findings shall be sent to the Department of Education charter school office and the applicant. If approved the application shall be forwarded by the local board to the State Board of Education.~~

~~27.7 RESPONSIBILITIES OF THE STATE BOARD OF EDUCATION CONVERSION CHARTER SCHOOLS~~

~~27.7.1 The State Board shall not approve a conversion charter school application from a district that has not been approved by the district's local board.~~

~~27.7.2 The Department of Education shall review the applications and present to the State Board a written evaluation of the application. A copy of the evaluation shall be sent to the applicant. The applicant will be allowed to submit a written response to the evaluation by an established deadline. The applicant will not be allowed to supplement the original application with additional documents or new information prior to the State Board review.~~

~~27.7.3 The State Board shall review the applications for proposed charter schools. The State Board shall vote whether or not to award charters to locally approved applications. The State Board may place conditions on the charters it awards.~~

~~27.7.4 The State Board of Education may defer the vote to approve or disapprove a charter application in order to allow a charter applicant to make modifications or receive technical assistance to correct deficiencies in the application.~~

~~27.7.5~~ — The decision of the State Board of Education shall be final.

~~27.8~~ — OPEN ENROLLMENT CHARTER SCHOOL — APPLICATION APPROVAL PROCEDURES

~~27.8.1~~ — Each charter applicant must submit to the Department of Education charter school office a letter of intent sent by certified mail on or before the established deadline. This same letter of intent is also to be sent by certified mail to the local board of the public school district where the proposed charter school will be located.

~~27.8.2~~ — Each charter applicant shall prepare an application that describes the elements of the applicant's plan for establishing a charter school. The application shall be on a form provided by the Department of Education. Technical assistance in preparing the application may be requested from the Department of Education charter school office.

~~27.8.3~~ — The application shall be sent to the local board of the public school district where the proposed charter school will be located. The applicant shall send the application by certified mail to the Superintendent of the local district. The applicant shall provide the Department of Education with verification that the required notice was sent to the local board. A copy of this same application shall be sent to the Department of Education.

~~27.8.4~~ — Each open enrollment charter applicant must notify any public school district in which enrollment is likely to be affected by the charter school of the need for a fiscal impact statement from the district(s). The applicant shall send the notice of fiscal impact form and a copy of the application by certified mail to the local school board(s) in care of the Superintendent(s). Documentation shall be provided to the Department of Education, including copies of receipts verifying that the fiscal impact statements have been sent.

~~27.8.5~~ — The boards of the public school districts in which enrollment is likely to be affected by the proposed charter school shall review the application for fiscal impact and take a vote recommending either approval or disapproval of the application to the State Board. These school boards shall submit a fiscal impact statement, any written conclusions of the board, and the results of the board's vote signed by the board president to the Department of Education by an established deadline. The school board shall send a copy of all of this information to the applicant by certified mail. Failure to submit this information will constitute the conclusion that the proposed charter school will have no fiscal impact on the district.



~~27.8.6~~ — The local board of the district where the proposed charter school is to be located shall review the open enrollment charter school application. The local board shall vote to approve or disapprove the application and prepare written findings. The results of the vote and the written findings shall be sent by certified mail to the Department of Education charter school office and to the charter school applicant by an established deadline.

~~27.8.7~~ — The applicant for an open enrollment charter school whose application is disapproved by the local board shall have the immediate right to proceed with a written notice of appeal to the State Board of Education. To exercise the right to appeal, the applicant must send written notice of appeal to the State Board within ten (10) days after receiving notice of the local board's disapproval of the application for an open enrollment charter school.

#### ~~27.9~~ — RESPONSIBILITIES OF THE STATE BOARD OF EDUCATION — OPEN-ENROLLMENT CHARTER SCHOOLS

~~27.9.1~~ — The State Board shall review the applications for proposed open enrollment charter schools approved by the local board and shall vote to award charters. The State Board may place conditions on the charters it awards.

~~27.9.2~~ — The Department of Education shall review the applications and present to the State Board a written evaluation of the application. A copy of the evaluation shall be sent to the applicant. The applicant will be allowed to submit a written response to the evaluation by an established deadline. The applicant will not be allowed to supplement the original application with additional documents or new information prior to the State Board review.

~~27.9.3~~ — In the event an application is denied by the local board, the State Board shall hold a hearing within forty five (45) calendar days after receipt of the notice of appeal at a location where all interested parties may appear and present relevant information regarding the proposed open enrollment charter school.

~~27.09.3.1~~ — The local board and the boards likely to be affected by the proposed charter school shall have a combined total of twenty (20) minutes to present the arguments for disapproval of the charter school to the State Board. Following the presentations by the public school district boards of education, the charter applicant shall have twenty (20) minutes to present its arguments to the State Board for approval of the proposed charter school. The State Board shall follow the

~~presentations with discussion of the charter application and possible questions to the public school board representative(s) and/or the charter applicant.~~

~~27.9.4 — The State Board shall review the applications for proposed charter schools. The Board shall vote whether or not to award charters to locally approved applications. The State Board may place conditions on the charters it awards.~~

~~27.9.5 — The State Board of Education may defer the vote to approve or disapprove a charter application in order to allow a charter applicant to make modifications or to receive technical assistance to correct deficiencies in the application.~~

~~27.9.6 — The decision of the State Board shall be final.~~

#### ~~27.10 — CONTENT OF APPLICATION AND CHARTER~~

~~27.10.1 — The charter school application shall include, but is not limited to the following:~~

~~27.10.1.1 — educational mission;~~

~~27.10.1.2 — educational need;~~

~~27.10.1.3 — description of public hearing results;~~

~~27.10.1.4 — description of educational plan, which clearly addresses how charter school will improve student learning and academic achievement and meet or exceed state goals;~~

~~27.10.1.5 — description of parent and teacher involvement in developing charter petition, developing and implementing educational plan, and identifying performance criteria;~~

~~27.10.1.6 — description of governance and organizational structure;~~

~~27.10.1.7 — description of facilities to be used and its location;~~

~~27.10.1.8 — copies of annual budget and financial plan (including all sources of funding);~~

- 27.10.1.9 — ~~agreement to provide annual report of progress toward meeting performance goals to parents, community, local board and state board;~~
  - 27.10.1.10 — ~~description of admission procedure;~~
  - 27.10.1.11 — ~~description of support services;~~
  - 27.10.1.12 — ~~identification of regulations, if any, to be waived, with rationale for waiver request;~~
  - 27.10.1.13 — ~~school calendar and school day schedule; and~~
  - 27.10.1.14 — ~~description of age or grade range of pupils to be enrolled.~~
- 27.10.2 — ~~In addition to the requirements identified in section 27.10.1, an application for an open enrollment charter school shall include, but is not limited to, the following:~~
- 27.10.2.1 — ~~specification of period for which the charter or any charter renewal is valid, contingent upon acceptable student performance levels established within the state accountability system;~~
  - 27.10.2.2 — ~~prohibition of discrimination in admission on the basis of gender, national origin, race, ethnicity, religion, disability, academic or athletic eligibility, although the charter may provide for the exclusion of a student who has been expelled from another public school district;~~
  - 27.10.2.3 — ~~specification of the qualifications to be met by professional employees of the program;~~
  - 27.10.2.4 — ~~description of budget process;~~
  - 27.10.2.5 — ~~description of annual audit of financial and programmatic operations, including how the charter school will provide information needed by the public school district in which the charter school is located;~~
  - 27.10.2.6 — ~~description of facilities to be used and its location including the terms of the facility utilization agreement if the facility for the charter school is owned or leased from a sectarian organization;~~

- ~~27.10.2.7~~ description of geographical area, school district or school attendance area to be served by the program;
- ~~27.10.2.8~~ description of admission and enrollment criteria and student recruitment and selection processes, including provision for a random, anonymous student selection method if more eligible students apply for a first-time admission than the charter school is able to accept; and
- ~~27.10.2.9~~ a statement that the eligible entity will not discriminate on the basis of race, sex, national origin, ethnicity, religion, age, or disability in employment decisions including hiring and retention of administrators, teachers, and other employees.

## ~~27.11~~ ENROLLMENT

- ~~27.11.1~~ Enrollment for an existing public school converted to a charter school will be determined in the manner similar to the enrollment procedures for the school district in which the charter school is located or similar to the enrollment procedures for district magnet schools.
- ~~27.11.2~~ While a charter school may operate on a traditional calendar or a year-long calendar, all charter schools shall begin the school year in the fall.

## ~~27.12~~ FUNDING

- ~~27.12.1~~ An existing public school converted to a charter school shall receive funds equal to the amount apportioned by the district from state and local revenue per average daily membership.
- ~~27.12.2~~ The Department of Education shall establish procedures to ensure that every charter school receives the Federal funds for which the charter school is eligible.
  - ~~27.12.2.1~~ The Department of Education shall take such measures as necessary to ensure that a charter school receives the federal funds for which the school is eligible not later than five (5) months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in the charter school are not fully and completely determined until that charter school actually opens.

~~27.12.2.2 — The measures shall also ensure that every charter school expanding its enrollment in any subsequent year of operation receives the federal funding for which the charter school is eligible not later than five (5) months after such expansion.~~

~~27.12.3 — The submission of an annual certified audit as required by Act 890 of 1999 shall be made according to the Arkansas Department of Education fiscal regulations and time lines. Failure to submit such audit in a timely manner would result in suspension of state aid payments until such audit is received by the Department of Education. The school's fiscal year shall run from July 1 through June 30.~~

### ~~27.13 — EVALUATION, MONITORING AND REPORTING REQUIREMENTS OF CHARTER SCHOOLS~~

~~27.13.1 — The Arkansas Department of Education shall conduct an annual evaluation of all charter schools, which shall include, but not be limited to, consideration of the following:~~

~~27.13.1.1 — student scores on assessment instruments;~~

~~27.13.1.2 — student attendance;~~

~~27.13.1.3 — student grades;~~

~~27.13.1.4 — student discipline incidents~~

~~27.13.1.5 — socioeconomic data on students' families;~~

~~27.13.1.6 — parent satisfaction with the school;~~

~~27.13.1.7 — student satisfaction with the schools;~~

~~27.13.1.8 — cost of instruction, administration, and transportation incurred by the schools;~~

~~27.13.1.9 — effects of the schools on the local school districts and on the teachers, students and parents in those districts;~~

~~27.13.1.10 — on-site monitoring of the facility; and~~

~~27.13.1.11 — other terms of the school's charter.~~

~~27.13.2 — As a condition of its charter, each charter school is required to provide an annual report to parents, the community and the State Board that details its progress in meeting its academic performance objectives.~~

~~27.13.3 — Each charter school will participate in the Arkansas Public School Computer Network reporting requirements.~~

~~27.13.4 — Each charter school shall provide to the Department of Education the same data required of other public schools, unless such data requirement is waived by the terms of the charter.~~

#### ~~27.14 — BASIS AND PROCEDURE FOR CHARTER MODIFICATION, OR CHARTER SCHOOL PROBATION, REVOCATION, OR DENIAL OF RENEWAL~~

~~27.14.1 — The State Board may modify the charter of a charter school or it may place a charter school on probation or revoke its charter or deny renewal of its charter at any time the Board deems it necessary to do so.~~

~~27.14.2 — The State Board shall notify the chief operating officer of the charter school of the alleged violation of the school's charter or of the offense in question. The notice shall include the State Board's proposed action. The notice will be delivered by certified mail to the chief operating officer of the charter school.~~

~~27.14.3 — The chief operating officer of the charter school, on behalf of the charter school, may request, in writing, a hearing before the State Board.~~

~~27.14.4 — The State Board shall hold a hearing, if requested, within forty five (45) calendar days of receipt of the hearing request.~~

~~27.14.5 — The hearing shall be held at the facility at which the charter school is located.~~

~~27.14.5.1 — Notice of the hearing shall be given to the faculty of the school and the parents of the students who attend the charter school.~~

~~27.14.5.2 — The hearing shall be open to the public.~~

~~27.14.6 — The decision of the State Board shall be final.~~

~~27.15 IMPACT ON DESEGREGATION EFFORTS~~

- ~~27.15.1~~ — Each application for a proposed charter school must include a written evaluation describing the potential impact on the efforts of a public school district or districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.
- ~~27.15.2~~ — The local board shall also prepare a written evaluation of the potential impact the proposed charter school will have on the efforts of the school district or districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools. This evaluation shall be forwarded to the State Board as part of the local boards written findings pursuant to Section 27.06.3 of these regulations.
- ~~27.15.3~~ — Each application for a proposed charter school shall be examined for its effect on the minority and majority percentages of student enrollment in the public school districts within the charter school's proposed population outreach.
- ~~27.15.4~~ — The Department of Education shall compute the minority and majority percentages of each county's public school population and shall then compute the acceptable range of variance from those percentages for school districts within each county.
- ~~27.15.5~~ — Each application for a proposed charter school shall be reviewed for its effect on these percentages that may be caused by
- ~~27.15.5.1~~ — the proposed charter school's proposed population range;
  - ~~27.15.5.2~~ — the size of the individual charter school;
  - ~~27.15.5.3~~ — the type of student population to be served, and
  - ~~27.15.5.4~~ — the proximity of a proposed charter school to an existing school district under desegregation obligations.
- ~~27.15.6~~ — Each application for a proposed charter school shall be reviewed for program and services as compared to the program and service requirements of the districts under the desegregation order.

~~27.15.7~~ — Technical assistance in this review may be provided by the  
Department of Education's section on Accountability and its unit on  
Desegregation Monitoring.

~~27.15.8~~ —



~~ARKANSAS DEPARTMENT OF EDUCATION-  
SPECIAL EDUCATION AND RELATED SERVICES  
28.0 UNIFORM GRADING SCALES FOR PUBLIC SECONDARY SCHOOLS AND  
FOR OPTIONAL USE IN PUBLIC ELEMENTARY SCHOOLS  
October 2005~~

~~28.1 UNIFORM GRADING SCALES FOR PUBLIC SECONDARY SCHOOLS~~

~~28.1.1 These Rules shall be known as the Arkansas Department of Education's Rules Governing Uniform Grading Scales for Public Secondary Schools and for Optional Use in Public Elementary Schools.~~

~~28.1.2 These Rules are enacted pursuant to the State Board of Education's authority under Arkansas Code Ann. § 6-11-105 and Ark. Code Ann. § 6-15-902 and Act 2152 of 2005.~~

~~28.2 PURPOSE~~

~~28.2.1 These Rules establish the uniform grading scales to be used by all public secondary schools in the state for regular courses, Advanced Placement courses, International Baccalaureate courses, approved weighted honors courses and approved weighted concurrent credit college courses.~~

~~28.2.2 These Rules establish the numeric value given to each letter grade for the purpose of determining grade average in all public secondary schools in the state for regular courses, Advanced Placement courses, International Baccalaureate courses, approved weighted concurrent credit college courses and approved weighted honors courses.~~

~~28.2.3 These Rules provide an optional uniform grading scale for public elementary schools.~~

~~28.3 DEFINITIONS~~

~~28.3.1 For the purpose of these Rules, a "secondary school" is any school containing one or more grades from 7 through 12 or any middle school having any combination of grades 5-8 with the exception of a school having only grade 5, grade 6, or the combination of grades 5-6.~~

~~28.3.2 An "elementary school" is a school having any combination of one or more grades from kindergarten through grade 6.~~

- ~~28.3.3~~ — ~~"Advanced Placement" courses are those courses taught following guidelines as provided for Advanced Placement courses by The College Board. Advanced Placement courses provide the opportunity for students to take a national examination through which they may qualify for college/university level credit.~~
- ~~28.3.4~~ — ~~"International Baccalaureate (IB) Diploma Program" courses are those taught following guidelines as provided for IB courses by the IB Organization. IB courses provide the opportunity for students to take a national examination.~~
- ~~28.3.5~~ — ~~"College Courses" are courses that are offered and taught under the direction of an accredited institution of higher education. Under separate Rules and Regulations students may qualify for concurrent credit for such courses. For a concurrent college course to receive a weighted grade, it must be approved through the process described in these rules and regulations.~~
- ~~28.3.6~~ — ~~"Honors Courses" are courses provided through an accredited high school that have been approved by a Department of Education Committee as honors courses. Honors courses must stress higher order learning and be offered in addition to curriculum offerings required by the Standards for Accreditation, Arkansas Public Schools.~~
- ~~28.3.7~~ — ~~A student is designated as "special education" if he/she has been through the identification and selection process and has an approved Individualized Education Plan that guides placement in instruction.~~

#### ~~28.4~~ — GRADING SCALE AND NUMERICAL VALUES

- ~~28.4.1~~ — ~~The following scale is to be the Uniform Grading Scale and numeric values for secondary schools and the optional Uniform Grading Scale for elementary schools. Grades earned in college courses will be assigned the following numeric values when such courses are used to compute student grade point average.~~

~~A 90—100 = 4 points~~

~~B 80—89 = 3 points~~

~~C 70—79 = 2 points~~

~~D 60—69 = 1 point~~

~~F 0—59 = 0 points~~

~~28.4.2 — The following scale is to be the Uniform Grading Scale and numeric values for Advanced Placement courses, courses offered under the International Baccalaureate Diploma Program, and approved honors courses:~~

~~A 90—100 = 5 points~~

~~B 80—89 = 4 points~~

~~C 70—79 = 3 points~~

~~D 60—69 = 2 points~~

~~F 0—59 = 0 points~~

~~28.4.3 — Weighted credit shall be allowed for Advanced Placement courses and courses offered under the International Baccalaureate Diploma Program if:~~

~~28.4.3.1 — The student takes the entire Advanced Placement course or the entire course offered in the International Baccalaureate Diploma Program in a particular subject;~~

~~28.4.3.2 — The student completes the applicable test offered by the College Board for Advanced Placement courses at the end of the Advanced Placement course, or the applicable test offered by the International Baccalaureate Organization at the time prescribed by the International Baccalaureate Organization; and~~

~~28.4.3.3 — The teacher of the Advanced Placement course meets Arkansas teacher licensure requirements and:~~

~~A. — Attends a College Board Advanced Placement Summer Institute no less than once every five (5) years; or~~

~~B. — Completes an additional training plan for Advanced Placement, within three (3) years of commencing the additional training plan; or~~

~~1. — The teacher of the course offered under the International Baccalaureate Diploma Program meets Arkansas teacher licensure requirements and attends the training required by the~~

~~International Baccalaureate  
Organization.~~

~~28.5 APPROVAL OF WEIGHTED HONORS COURSES AND/OR WEIGHTED  
CONCURRENT CREDIT COLLEGE COURSES~~

- ~~28.5.1 A local school district may apply to the Department of Education for approval of courses to be designated as weighted “honors courses.”~~
- ~~28.5.2 The local school board may decide whether or not to adopt a local policy to allow high school students in the district to take college courses for weighted credit equal to the numeric grade awarded in Advanced Placement, International Baccalaureate Diploma Program and Arkansas Department of Education approved honors classes.~~
- ~~28.5.3 If a local school board adopts such a policy, the district must apply to the Department of Education for approval of “concurrent enrollment college Courses” to be designated as a weighted course. The application shall be reviewed for approval to assign a numeric grade value, which may include weighted credit.~~
- ~~28.5.4 Applications for weighted honors courses and/ or weighted concurrent college courses will be reviewed for approval based on the following criteria:~~
- ~~28.5.4.1 Letter from the superintendent or principal describing how the course exceeds expectations for coursework required under the Standards for Accreditation, Arkansas Public Schools.~~
  - ~~28.5.4.2 Grade level(s) of students who will be enrolled in the course.~~
  - ~~28.5.4.3 Statement of learner outcomes, objectives, and/or learning expectations based on revised curriculum frameworks where appropriate.~~
  - ~~28.5.4.4 Listing of unit topics to be included in the course.~~
  - ~~28.5.4.5 Description of instructional strategies demonstrating problem solving, critical thinking, and higher order learning processes. This description should include at least one exemplary lesson.~~

~~28.5.4.6 — Description of performance based assessment strategies to be implemented in the classroom.~~

~~28.5.4.7 — Clear evidence that the concurrent credit course is substantially the same as an Advanced Placement Course.~~

**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.