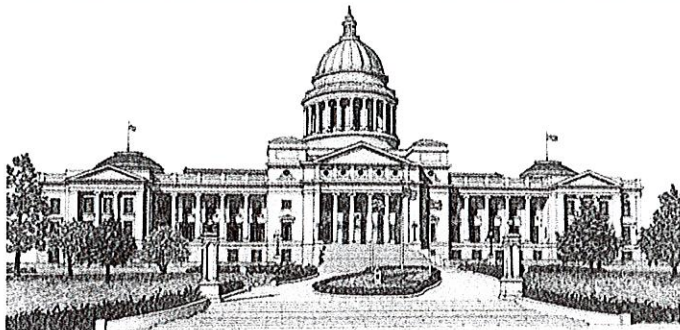


ARKANSAS REGISTER

Transmittal Sheet

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



Secretary of State

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Little Rock, Arkansas 72201-1094

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Department of Education

Department Division of Elementary and Secondary Education

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

Statutory Authority for Promulgating Rules Ark. Code Ann. §§6-11-105, 6-17-412, and 6-17-413

Rule Title:

Arkansas Department of Education Arkansas Division of Elementary and Secondary Education Rules Governing Eligibility and Financial Incentives for Professional Teaching Standards

Intended Effective Date
(Check One)

Date

☐ Emergency (ACA 25-15-204)

Legal Notice Published

November 17, 2019

☒ 10 Days After Filing (ACA 25-15-204)

Final Date for Public Comment

December 17, 2019

☐ Other _____
(Must be more than 10 days after filing date.)

Reviewed by Legislative Council

June 19, 2020

Adopted by State Agency

May 14, 2020

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

Taylor Dugan

taylor.dugan@arkansas.gov

June 23, 2020

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

501-682-1958

taylor.dugan@arkansas.gov

Phone Number

E-mail Address

Attorney

Title

June 23, 2020

Date

**Arkansas Department of Education
Arkansas Division of Elementary and Secondary Education
Rules Governing Eligibility and Financial Incentives
For National Board for Professional Teaching Standards
Effective Date: July 3, 2020**

1.00 Regulatory Authority

- 1.1 These rules shall be known as the Arkansas Department of Education Division Rules Governing Eligibility and Financial Incentives for National Board for Professional Teaching Standards (NBPTS) Candidacy and Certification.
- 1.2 These rules are enacted under the State Board of Education's authority pursuant to Ark. Code Ann. §§6-11-105, 6-17-412, and 6-17-413.

2.00 Purpose

- 2.1 To improve student learning and strengthen teaching by encouraging teachers to participate in and complete NBPTS certification;
- 2.2 To authorize the Division to fund the full amount of the participation fee of the NBPTS certification;
- 2.3 To authorize the Division to fund financial incentives for NBCTs in Arkansas;
- 2.4 To outline the eligibility criteria and funding structure for the incentives; and
- 2.5 To outline the establishment of a support program for NBPTS participants.

3.00 Definitions

For the purposes of these rules:

- 3.1 **"Accredited Teacher Preparation Program"** means an educator preparation program that is:
 - 3.1.1 Accredited by the Council for Accreditation of Educator Preparation (CAEP);
 - 3.1.2 Accredited by an accrediting organization recognized by the U.S. Department of Education or the Council for Higher Education Accreditation; or
 - 3.1.3 Approved by the licensing authority of a state government.

- 3.2 **“Advisory Committee”** means the ten (10) member team of three (3) National Board Certified Teachers, three (3) National Board facilitators, and four (4) educational administration or business representatives. One (1) of the ten (10) members may be a Division staff member. The Advisory Committee advises the Division on policy issues, assists in the support system, and recommends criteria for the selection of candidates when all candidates cannot be funded. Criteria shall be recommended by the Advisory Committee in accordance with law for review and approval by the State Board.
- 3.3 **“Classroom teacher”** means a teacher who is required to hold a standard teaching license from the Division and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual’s contracted time, with that 70% allowed to include:
- 3.3.1 Employment by an educational service cooperative when the teacher provides direct student services for a collaborative of school districts in public school buildings and other instructional settings throughout the cooperative area; and
 - 3.3.2 Instructional positions such as library/media specialist, school guidance counselor, literacy specialist, math specialist, dyslexia specialist, or others for whom NBPTS certificates specifically exist and who meet the definition of classroom teacher.
- 3.4 **“Classroom setting”:**
-
- 3.4.1 For the purpose of eligibility for NBPTS candidacy funding means full-time assignment to a setting in a specific Arkansas public school building or buildings in which a teacher works directly with a student or students; and
 - 3.4.2 For the purpose of eligibility for an incentive bonus means full-time assignment to a setting in a school building(s) or other instructional settings where a NBCT is directly involved in the instructional process by teaching children, by facilitating the instructional process through work with building teachers in classrooms, or by serving in the role of building administrator, or assistant building administrator.
- 3.5 **“Division”** means the Arkansas Department of Education Division of Elementary and Secondary Education
- 3.6 **“High-poverty charter school”** means an Arkansas open-enrollment public charter school in which seventy percent (70%) or greater of the previous school year’s enrolled students are national school lunch students as defined in § 6-20-2303.

- 3.7 **“High-poverty district”** means an Arkansas public school district in which seventy percent (70%) or greater of the previous school year’s enrolled students are national school lunch students as defined in § 6-20-2303.
- 3.8 **“High-poverty school”** means an Arkansas public school in which seventy percent (70%) or greater of the previous school year’s enrolled students are national school lunch students as defined in § 6-20-2303.
- 3.9 **“In the process of initial certification”** means that the individual has completed registration for first-time candidacy (including payment of the NBPTS registration fee).
- 3.10 **“Instructional facilitator”** means an individual holding a valid Arkansas teacher’s license who facilitates continuous improvement in classroom instruction by providing instructional and professional learning support to teachers for research-based instruction and by demonstrating the alignment of instruction with curriculum standards and assessment tools.
- 3.11 **“Instructional leader”** means a building-level administrator who is responsible for evaluating teachers or instructional staff. It shall include without limitation a building-level administrator who is an evaluator as defined in Ark Code Ann. § 6-17-2803.
- 3.12 **“National Board for Professional Teaching Standards”** means the independent board that certifies teachers who meet advanced standards and certifications by effectively enhancing student learning and demonstrating the high level of knowledge and skills, dispositions, and commitments reflected in the following five core propositions:
 - 3.12.1 Teachers are committed to students and their learning.
 - 3.12.2 Teachers know the subjects they teach and how to teach those subjects to students.
 - 3.12.3 Teachers are responsible for managing and monitoring student learning.
 - 3.12.4 Teachers think systematically about their practice and learn from experience.
 - 3.12.5 Teachers are members of learning communities.
- 3.13 **“NBCT”** means National Board Certified Teacher.
- 3.14 **“NBPTS Candidacy”** means an applicant’s participation in the NBPTS program for becoming a certified teacher under these rules;
- 3.15 **“Public School”** means:
 - 3.14.1 A school operated by a public school district; or

3.14.2 An open-enrollment public charter school, as defined in Ark. Code Ann. § 6-23-103.

3.16 “**State Board**” means the Arkansas State Board of Education.

4.00 Selection Process for Payment for NBPTS Candidacy

4.1 Application criteria:

4.1.1 An applicant shall complete the official application process established by the Division;

4.1.2 An applicant shall not have received prior state funding for NBPTS candidacy and must be applying for initial candidacy;

4.1.3 An Applicant shall verify at least three (3) years teaching experience in an Arkansas public school beginning no earlier than the year in which the applicant’s first license to teach in an Arkansas public school is issued; and

4.2 Selection process:

4.2.1 A candidate shall meet or exceed the minimum qualifying score for the application process approved by the State Board.

4.2.2 NBPTS Advisory Committee will review applications if full funding is not available and recommend to the Division the candidates to be funded.

4.2.3 A candidate selected to receive state funding must submit all NBPTS components within the first year candidacy cycle.

4.3 Payment of component costs for NBPTS Candidacy:

4.3.1 The Division shall pay the following costs associated with NBPTS candidacy for candidates selected for participation under these rules:

4.3.1.1 The cost of submission for the four (4) components, excluding: (a) the application fee assessed by the National Board, (b) retake fees, and (c) renewal fees; and

4.3.1.2 Substitute teacher pay for up to three (3) days of approved paid leave.

4.4 A candidate who pays for the cost of one component may apply to the Division for reimbursement of that cost and for state support of the remaining certification components if the Division receives the application within 14 days after the release of scores from NBPTS. The Advisory Committee shall recommend a

minimum qualifying score, review the applications, and make a recommendation to the State Board for funding. A candidate selected to receive reimbursement and state funding for remaining components must submit all remaining NBPTS components within the second year candidacy cycle.

4.5 Repayment of funding:

4.5.1 Repayment of state funds for the NBPTS is required if a recipient:

- 4.5.1.1 Does not complete the certification process within three (3) years after the NBPTS enters the candidate into its certification program; or
- 4.5.1.2 Becomes a NBCT with the support of state funds, but for the three-year period following certification that includes the year of certification and the two years immediately following certification, does not teach in an Arkansas public school classroom or does not serve as a building-level administrator, a building-level assistant, an instructional facilitator, or instructional leader, as applicable.

4.5.2 A candidate required to repay funds under this section may seek a waiver of repayment from the State Board if the candidate was forced to withdraw from candidacy due to:

- 4.5.2.1 The death or disability of the teacher, or
- 4.5.2.2 Other serious extenuating circumstances recommended by the Advisory Committee, including without limitation health related problems verified by a licensed physician.

4.6 The State Board may suspend a recipient's teaching license for failure to repay state funds provided under these rules. The teaching license may be reinstated upon full payment as provided in the Division Rules Governing Educator Licensure.

5.00 Incentive Payments

5.1 A NBCT who began the process of initial certification or was certified or recertified before January 1, 2018:

5.1.1 Shall receive a yearly incentive payment if selected to participate in the NBPTS program under these rules, and-if at the time of receiving the bonus: the NBCT is:

- 5.1.1.1 Employed full time as a classroom teacher, building-level principal, or building-level assistant principal in an Arkansas public school;
- 5.1.1.2 A NBCT certified on or after August 1, 2009, and who after

working a minimum of three (3) years with National Board certification as a classroom teacher or as a building-level administrator or building-level assistant administrator in an Arkansas public school district is employed full time as a teacher in an accredited teacher preparation program at a state-sponsored institution of higher education;

- 5.1.1.3 A NBCT who moved into the state on or before January 1, 2017, and is employed full time as a classroom teacher, building-level principal, or building-level assistant principal in an Arkansas public school; or
- 5.1.1.4 A NBCT certified on or after August 1, 2009, who moves moved into the state on or before January 1, 2017, and after working a minimum of three (3) years with National Board certification as a classroom teacher or as a building-level administrator or building-level assistant administrator in an Arkansas public school district is employed full time as a teacher in an accredited teacher preparation program at a state-sponsored institution of higher education.
- 5.1.2 A NBCT who meets the qualifications of Section 5.1 and is working full-time in a public school, that is not a high-poverty school or a high-poverty charter school shall receive a gross yearly incentive payment of five thousand dollars (\$5,000) for the length of the certification or the recertification, but for no more than ten (10) school years.
- 5.1.3 A NBCT who meets the qualifications of Section 5.1 and is working full-time in a public school that is a high-poverty school that is not in a high-poverty school district shall receive a gross yearly incentive payment of five thousand dollars (\$5,000) for the length of the certification or the recertification, but for no more than ten (10) school years.
- 5.1.4 A person who meets the qualifications of Section 5.1 and is working full-time in a public school that is a high-poverty school in a high-poverty district or is a high-poverty charter school shall receive a gross yearly incentive payment of ten thousand dollars (\$10,000) for the length of the certification or the recertification, but for no more than ten (10) school years.
- 5.2 A NBCT who began the certification process AND was certified **after** January 1, 2018, shall receive a yearly incentive payment if the NBCT is a classroom teacher, an instructional facilitator, or an instructional leader.
 - 5.2.1 A NBCT who meets the qualifications of Section 5.2 and is working full-time in a public school, that is not a high-poverty school or a high-poverty charter school shall receive a gross yearly incentive payment of two thousand five hundred dollars (\$2,500) for no more than five (5) school years.

- 5.2.2 A NBCT who meets the qualifications of Section 5.2 and is working full-time in a public school that is a high-poverty school that is not in a high-poverty school district shall receive a gross yearly incentive payment of five thousand dollars (\$5,000) for no more than five (5) school years.
- 5.2.3 A person who meets the qualifications of Section 5.2 and is working full-time in a public school that is a high-poverty school in a high-poverty district or is a high-poverty charter school shall receive a gross yearly incentive payment of ten thousand dollars (\$10,000) for no more than ten (10) school years.
- 5.3 Payments shall be made annually by June 30-of each year A NBCT shall not receive an incentive payment if the NBCT does not complete the annual profile by the date determined by the Division.
- 5.4 A person shall not receive in the same school year more than one (1) yearly incentive payment under Section 5.2; and
- 5.5 A person shall not receive in the same school year both an incentive payment under Sections 5.1 and 5.2.
 - 5.5.1 A person who, as of December 1, 2017, meets the qualifications for a yearly incentive payment under both Sections 5.1 and 5.2 may make an irrevocable election to receive future yearly incentives under Section 5.2 by filing a written election with the Division no later than July 1, 2019.
- 5.6 The Division shall not pay an incentive or any increase in an incentive retroactively.
- 5.7 The NBCT shall not be eligible to receive an incentive payment if the NBCT:
 - 5.7.1 Has received an incentive payment for a cumulative total of ten (10) school years after January 1, 2018. Payments may only be received for a maximum of ten (10) years if certified after January 1, 2018;
 - 5.7.2 Leaves the full-time employment of an Arkansas public school district;
 - 5.7.3 Becomes employed as a district-level central office administrator;
 - 5.7.4 Is employed by an Arkansas institution of higher education and does not teach in an accredited teacher preparation program; or
 - 5.7.5 Is employed by an education service cooperative and does not teach in a classroom setting with students.
- 5.8 A person shall not receive an incentive payment under multiple sections of these rules in the same school year.
- 5.9 A traveling teacher who is eligible for an incentive payment under these rules shall receive the incentive for the school that the teacher's contract identifies as the

teacher's home base.

6.00 Support Program for Teachers Selected to Participate in NBPTS Candidacy

- 6.1 The State Board will establish a support program for teachers selected to participate in the NBPTS Program that provides technical assistance to program applicants to ensure successful program completion, which may include without limitation:
 - 6.1.1 Establishing a variety of support opportunities such as annual pre-candidacy orientations, regular meetings of participants, telephone/email contact with facilitators and NBCTs, and Division intervention with NBPTS if necessary;
 - 6.1.2 Providing information on the NBPTS state support program on the Division web site;
 - 6.1.3 Providing other assistance, if determined to be necessary by the Division.
- 6.2 Credit for professional development may be obtained pursuant to school district policy.

7.00 Monitoring for NBPTS Program Participation

- 7.1 The public school that employs a NBCT shall certify, and to the Division shall verify annually the job code of that teacher to determine eligibility for an incentive payment.

8.00 Funding Limitations

- 8.1 Provisions of these rules and Ark. Code Ann. §§6-17-412 and 6-17-413 apply only to the extent that funds are appropriated and available to the Division to pay for these purposes.
- 8.2 Funding under Sections 5.1.1.2 and 5.1.1.4. shall be paid only if funds are available after funding all eligible candidates under Sections 5.1.1.1 and 5.1.1.3.
- 8.3 All incentive payments shall be made in accordance with Division Rules governing payment of bonuses, stipends, and other financial awards and incentives.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Division of Elementary and Secondary Education

DIVISION Educator Effectiveness

PERSON COMPLETING THIS STATEMENT Taylor Dugan

TELEPHONE NO. 501-682-1958 FAX NO. 501-682-4249 EMAIL: taylor.dugan@arkansas.gov

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

SHORT TITLE OF THIS RULE ADE DESE Rules Governing Eligibility and Financial Incentives for National Board for Professional Teaching Standards.

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes _____ No X _____
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes _____ X _____ No _____
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes _____ X _____ No _____

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

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

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

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

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

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

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

Current Fiscal Year

General Revenue N/A

Federal Funds _____

Cash Funds _____

Special Revenue _____

Next Fiscal Year

General Revenue N/A

Federal Funds _____

Cash Funds _____

Special Revenue _____

Other (Identify) _____

Total N/A

Other (Identify) _____

Total N/A

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

Current Fiscal Year

General Revenue N/A

Federal Funds 0

Cash Funds 0

Special Revenue 0

Other (Identify) 0

Total N/A

Next Fiscal Year

General Revenue N/A

Federal Funds 0

Cash Funds 0

Special Revenue 0

Other (Identify) 0

Total N/A

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

\$ 0

Next Fiscal Year

\$ 0

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

Current Fiscal Year

\$ 0

Next Fiscal Year

\$ 0

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes _____ No X

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously

with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

NOTE: The amendment would clarify who is eligible to receive an incentive for National Board Certify Teachers. If the funding is not raised then it would not have a fiscal impact.