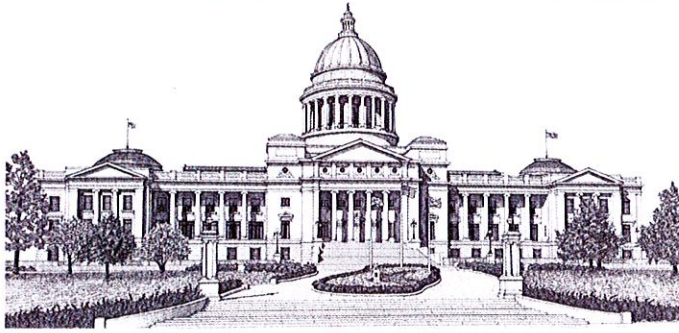


# ARKANSAS REGISTER



## Transmittal Sheet

Use only for FINAL and EMERGENCY RULES

Secretary of State

Mark Martin

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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 Lori Freno E-mail lori.freno@ade.arkansas.gov Phone 501-682-4234

Statutory Authority for Promulgating Rules Ark. Code Ann. §§ 6-11-105, 6-16-130

Rule Title: DESE Rules Governing Visual and Performing Arts Instruction for Students in Grades One Through Eight (1-8)

### Intended Effective Date

(Check One)

Date

<input type="checkbox"/> Emergency (ACA 25-15-204)	Legal Notice Published .....	<u>1/23, 24, 25/2022</u>
<input checked="" type="checkbox"/> 10 Days After Filing (ACA 25-15-204)	Final Date for Public Comment .....	<u>2/24/22</u>
<input type="checkbox"/> Other _____ (Must be more than 10 days after filing date.)	Reviewed by Legislatice Council .....	<u>5/20/22</u>
	Adopted by State Agency .....	<u>4/15/22</u>

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

<u>Lori Freno</u>	<u>lori.freno@ade.arkansas.gov</u>	<u>5/20/22</u>
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

501-682-4234

lori.freno@ade.arkansas.gov

Phone Number

E-mail Address

General Counsel, Arkansas Department of Education

Title

May 20, 2022

Date

## **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 Does this proposed, amended, or repealed rule have a financial impact?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.

**ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION  
RULES GOVERNING VISUAL AND PERFORMING ARTS INSTRUCTION FOR  
STUDENTS IN GRADES ONE THROUGH EIGHT (1-8)**

**Effective: May 31, 2022**

**1.00 REGULATORY AUTHORITY**

- 1.01 These Rules shall be known as the Arkansas Division of Elementary and Secondary Education Rules Governing Visual Instruction for students in grades one through eight (1-8).
- 1.02 The State Board of Education promulgates these Rules pursuant to the regulatory authority provided in Arkansas Code Annotated § 6-11-105 and § 6-16-130.

**2.00 DEFINITIONS**

- 2.01 "Class Size" means maximum student/teacher ratios for grades one through three (1-3) and four through eight (4-8) as defined in the DESE Rules Governing Standards for Accreditation of Arkansas Public Schools and School Districts. Music classes (general music, instrumental ensemble, and vocal ensemble) lend themselves to large group instruction and may exceed class size ratios.
- 2.02 "Academic Standards" means discipline-based documents, approved by the State Board, which clearly describe what students must know and be able to do in each academic content area of visual and performing arts.
- 2.03 "Equivalent amounts of time" means the number of cumulative clock hours of instruction that within a school year would be equal to forty (40) minutes of instruction per week in each content area.
- 2.04 "Licensed teacher" means an individual who holds a valid Arkansas teaching license with a certification in the subject area to be taught. For the purpose of these Rules, the subject areas are visual and performing arts.
- 2.05 "Performing Arts Instruction" means the teaching of those content standards and learning expectations which are contained within the artistic processes of the Academic Standards for Dance, Music, and Theatre.
- 2.06 "Student" means any individual enrolled in grades one through eight (1-8), including those individuals with disabilities or other special needs.

- 2.07 “Visual Art Instruction” means the teaching of those content standards and learning expectations which are contained within the artistic processes of the Academic Standards for Visual Art.

### 3.00 IMPLEMENTATION

- 3.01 Every student in grades one through six (1-6) enrolled in a public school or an open enrollment public charter school that is configured as an elementary school shall receive no less than forty (40) minutes in visual art instruction and no less than forty (40) minutes in performing arts instruction based on the state academic standards for visual and performing arts each calendar week of the school year, or an equivalent amount of time; or,
- 3.02 A student in grades five (5) or six (6) enrolled in a public school or an open-enrollment public charter school that is not configured as an elementary school, or a student enrolled in grade seven (7) or eight (8) shall participate in:
- 3.02.1 Visual arts instruction, appreciation, and application; or
  - 3.02.2 Performing arts instruction, appreciation, and application.
- 3.03 The instruction in visual and performing arts must be provided by a licensed teacher certified to teach in the respective course area being taught.

### 4.00 STIPEND

The Division of Elementary and Secondary Education shall provide a stipend of no less than one hundred dollars (\$100.00) per class, to each school, for the purchase of supplies or equipment, depending upon appropriation and availability of funds, for the classes described in these Rules.