

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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



Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

**ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING DECLINING ENROLLMENT AND STUDENT GROWTH FUNDING
FOR PUBLIC SCHOOL DISTRICTS**

Effective ~~January 1, 2019~~ 2022

1.00 AUTHORITY

- 1.01 The State Board of promulgates these rules pursuant to Ark. Code Ann. §§ 6-11-105, 6-20-604, 6-20-2203, and 6-20-2301 et seq., and Act ~~741 of 2017~~ 909 of 2021.
- 1.02 These Rules shall be known as the Arkansas Department of Education (ADE) Rules Governing Declining Enrollment and Student Growth Funding for Public School Districts (Rules).

2.00 PURPOSE

- 2.01 The purpose of these Rules is to provide information regarding Declining Enrollment and Student Growth Funding for public school districts.

3.00 DEFINITIONS

- 3.01 Average Daily Membership (ADM) means the total number of days of school attended plus the total number of days absent by students in kindergarten through grade twelve (K-12) during the first three (3) quarters of each school year, divided by the number of school days actually taught in the school district during that period of time, rounded up to the nearest hundredth.
- 3.02 Declining Enrollment Funding means the amount of state financial aid provided to an eligible school district from funds made available for the decline in the ADM of the school district in the preceding school year compared to the school year before the preceding school year.
- 3.03 Excess Net Revenues Plus Calculated Miscellaneous Funds means the amount of net revenues plus calculated miscellaneous funds a school district receives that is greater than the foundation funding amount. Excess net revenues plus calculated miscellaneous funds excludes the amount remitted to the ADE above ninety-eight percent (98%) of assessed value for the uniform rate of tax.
- 3.04 Net Revenues means actual revenues generated from ad valorem taxes and distributed to a school district multiplied by the ratio derived from dividing the uniform rate of tax by the total millage rate of the school district.
- 3.05 Quarterly Average Daily Membership means the ADM for one (1) quarter of a school year used for calculating student growth funding pursuant to Section 5.00 of these Rules.
- ~~3.06 Special Needs Isolated Funding means the amount of funding provided for an eligible school district meeting the criteria established in Ark. Code Ann. § 6-20-604.~~
- 3.07 Student Growth Funding means the amount of state financial aid provided to an eligible school district from funds made available for the growth in the ADM of the school district for each sequential quarter beginning with prior fiscal year quarter four (4) and ending with

current fiscal year quarter three (3) compared to each corresponding prior fiscal year three-quarter ADM of the school district.

4.00 DECLINING ENROLLMENT FUNDING

- 4.01 Declining enrollment funding is equal to the three-quarter ADM of the prior fiscal year, subtracted from the average of the three-quarter ADM of the prior fiscal year and the ADM of the fiscal year prior to the prior fiscal year, multiplied by the current amount of foundation funding per-student established by the General Assembly.
- ~~4.02 Pursuant to Ark. Code Ann. § 6-20-2305 (a)(3)(A), no school district shall receive both declining enrollment funding and special needs isolated funding under Ark. Code Ann. § 6-20-604.~~
- 4.03 Pursuant to Ark. Code Ann. § 6-20-2305 (a)(3)(C), no school district shall receive both declining enrollment funding and student growth funding. These two funding categories are calculated using ADM data from different time periods. Therefore, within one fiscal year, it is possible for a school district:
 - 4.03.1 To qualify for declining enrollment funding due to a decline in prior fiscal year three-quarter ADM compared to the three-quarter ADM in the fiscal year prior to the prior fiscal year; and
 - 4.03.2 To qualify for student growth funding due to growth in quarterly ADM beginning with prior fiscal year quarter four (4) and ending with current fiscal year quarter three (3) compared to each corresponding prior fiscal year three-quarter ADM of the school district.
- 4.04 The ADE will provide the funding category or categories that yields the most funding to the school district by comparing declining enrollment funding to student growth funding ~~plus special needs isolated funding~~ minus excess net revenues plus calculated miscellaneous funds.
- 4.05 Declining enrollment funding is unrestricted funding. However, under Ark. Code Ann. § 6-20-2203, by February 15 of each year for each school district receiving declining enrollment funding, the ADE shall submit to the state board, the Governor, and the Senate and House Education Committees, a report listing the amount of declining enrollment funding received under Ark. Code Ann. § 6-20-2305(a)(3)(A), how the funds were expended, the amount expended, and any other information required. To enable the tracking of expenditures of declining enrollment funding for these required reports, the funds may not be transferred to another fund prior to expenditure, but must be expended directly from the declining enrollment fund.

5.00 STUDENT GROWTH FUNDING

- 5.01 Student growth funding is calculated as the sum of the following amounts:
 - 5.01.1 One quarter (1/4) of the current foundation funding amount per-student as established by the General Assembly multiplied by the increase, if any, in the school district's:

- 5.01.1.1 Previous fiscal year fourth quarter ADM over compared to the fiscal year three-quarter ADM in the year prior to the aforementioned fourth quarter ADM;
 - 5.01.1.2 Current fiscal year first quarter ADM compared to the prior fiscal year three-quarter ADM;
 - 5.01.1.3 Current fiscal year second quarter ADM compared to the prior fiscal year three-quarter ADM; and
 - 5.01.1.4 Current fiscal year third quarter ADM compared to the prior fiscal year three-quarter ADM;
 - 5.01.1.5 A final comparison will be made of the ADM from quarters one (1), two (2), and three (3) used in Sections 5.01.1.1, 5.01.1.2, 5.01.1.3, and 5.01.1.4 above. The comparison will check for changes to quarters one (1), two (2), and three (3) ADM from Cycle 6 to Cycle 7 that have an effect on the student growth funding calculation. The comparison will take place after the fiscal year has ended, but any resulting funding adjustments should be coded to the fiscal year just ended.
- 5.02 If a school district's net revenues minus any recoupment to the state above the ninety-eight (98%) URT, plus miscellaneous funds calculated under Ark. Code Ann. § 6-20-2308(b)(1)(A) exceeds the foundation funding amount, a school district shall be eligible to receive the amount of calculated student growth funding that exceeds the net revenues minus any recoupment to the state above the ninety-eight (98%) URT, plus miscellaneous funds calculated under Ark. Code Ann. § 6-20-2308(b)(1)(A).
- 5.03 Increases in ADM resulting solely from consolidation or annexation shall be excluded from the student growth funding calculation.
- 5.04 No school district shall receive both declining enrollment funding and student growth funding.
- 5.05 Student growth funding is provided to eligible school districts and open-enrollment public charter schools to help bridge the gap between the foundation funding amount calculated using prior year three-quarter ADM and any quarterly growth in ADM subsequent to the prior-year three-quarter ADM. Local education agencies that receive the foundation funding amount based on current year three-quarter ADM are ineligible for student growth funding.
- 5.06 Student growth funding is unrestricted funding. However, under Ark. Code Ann. § 6-20-2203, by February 15 of each year for each school district receiving student growth funding, the ADE shall submit to the state board, the Governor, and the Senate and House Education Committees a report listing the amount of student growth funding received under Ark. Code Ann. § 6-20-2305(c)(2), how the funds were expended, the amount expended, and any other information required. To enable the tracking of expenditures of student growth funding for these required reports, the funds may not be transferred to another fund prior to expenditure, but must be expended directly from the student growth fund.

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.

EXECUTIVE SUMMARY OF PROPOSED RULES
GOVERNING DECLINING ENROLLMENT AND STUDENT GROWTH
FUNDING

Purpose:

These rules incorporate the provisions of Act 909 to remove the restriction that a district could not receive declining enrollment and special needs isolated funding.

Background:

Prior to the passage of Act 909 of 2021, a district could not receive both declining enrollment and special needs isolated funding; a district that was eligible for both, would receive the higher of the two amounts. The proposed change allows eligible districts to receive both sources of funding.

Key Points:

- Act 909 removed the restriction that a district could not receive declining enrollment and special needs isolated funding, allowing the most rural school districts in Arkansas to access both sources of funds to meet the needs of students.

Discussion:

Prior to the passage of Act 909 of 2021, a district could not receive both declining enrollment and special needs isolated funding; a district that was eligible for both, would receive the higher of the two amounts. The proposed change allows eligible districts, the most rural in the state, to receive both sources of funding to meet the needs of its students. The eligibility for special needs isolated funding is set forth in Ark. Code Ann. 6-20-604 and is based on the number of students in the district and the density ratio of students per square mile.

Recommendation:

We recommend that the proposed amendments to the Declining Enrollment and Student Growth Funding rules be approved.