

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 DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING THE STAR-SPANGLED BANNER ACT
Proposed Effective March 2022

1.00 AUTHORITY

- 1.01 The Arkansas State Board of Education’s authority for promulgating these Rules is pursuant to Ark. Code Ann. §§ 6-11-105 and 6-10-136 and Act 958 of 2021.
- 1.02 These Rules shall be known as the Arkansas Division of Elementary and Secondary Education (“Division”) Rules Governing the Star-Spangled Banner Act.

2.00 LEGISLATIVE FINDINGS

The State Board of Education (“State Board”) notes that the Arkansas General Assembly finds that:

- 2.01 It is of the utmost importance that Arkansas youth learn the importance of the national anthem, "The Star-Spangled Banner";
- 2.02 The regular playing of "The Star-Spangled Banner" will foster patriotism and celebrate the common American experience; and
- 2.03 "The Star-Spangled Banner" should be played in solemn observance and recognition for the men and women who have sacrificed their lives in defense of the American Experiment.

3.00 BROADCAST POLICY

- 3.01 Each school district board of directors shall adopt a policy requiring each public kindergarten through grade twelve (K-12) school in the district to broadcast "The Star-Spangled Banner" at the commencement of each school-sanctioned sporting event.
- 3.01.1 If any part of two (2) or more school- sanctioned sporting events occur on the same day at the same school, a public school may choose to broadcast "The Star-Spangled Banner" at only one (1) of the events.
- 3.02 The policy shall also require each public kindergarten through grade twelve (K-12) school in the district to broadcast "The Star-Spangled Banner" at least one (1) time each week during school hours.
- 3.03 The board, district, or school shall select for broadcast, any recording of “The Star-Spangled Banner” that includes the lyrics from the first verse written by

Francis Scott Key or is the standard arrangement or standard instrumental version used by U.S. military bands or similar arrangement or version.

3.04 A school district board of directors may adopt a policy that allows the performance of "The Star-Spangled Banner" at school-sanctioned sporting events, at schools during school hours, or both:

3.04.1 From original sheet music that adheres to Section 3.03 of these rules and is performed by a school- sanctioned band program;

3.04.2 From original sheet music that adheres to Section 3.03 of these rules and is performed by a school-sanctioned chorale program, vocal group, or vocalist; or

3.04.3 By the attendees of a school-sanctioned event led by a vocalist selected by the principal of the public school hosting the school-sanctioned event.

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 THE STAR-SPANGLED BANNER ACT**

Purpose:

These rules require school district boards of directors to adopt a policy requiring each school in the district to broadcast “The Star-Spangled Banner” at the beginning of each school-sanctioned sporting event and at least one time each week during school hours.

Background:

Act 958 of 2021 creates a new code section, Ark. Code Ann. 6-10-136, requiring school district boards of directors to adopt a policy requiring each school in the district to broadcast “The Star-Spangled Banner” at the beginning of each school-sanctioned sporting event and at least one time each week during school hours. Act 958 further specifies that the district broadcast a recording that adheres to rules promulgated by the Division. These proposed rules identify as approved recordings, the standard arrangement or standard instrumental version used by U.S. military bands or similar arrangement or version, or a recording that includes the lyrics from the first verse written by Francis Scott Key. There is no official version of The Star-Spangled Banner, however, these are the recordings most commonly used and referred to.

Key Points:

- Districts are required to adopt a policy requiring schools to broadcast The Star-Spangled Banner at the beginning of each school-sanctioned sporting event and at least one time each week during school hours.
- The recording selected must meet the specifications set forth in Division rules.
- Approved recordings are those most commonly used and easily obtainable by schools.

Discussion:

Act 958 of 2021 creates a new code section, Ark. Code Ann. 6-10-136, requiring school district boards of directors to adopt a policy requiring each school in the district to broadcast “The Star-Spangled Banner” at the beginning of each school-sanctioned sporting event and at least one time each week during school hours. Act 958 further specifies that the district broadcast a recording that adheres to rules promulgated by the Division. These proposed rules identify as approved recordings, the standard arrangement or standard instrumental version used by U.S. military bands or similar arrangement or version, or a recording that includes the lyrics from the first verse written by Francis Scott Key. There is no official version of The Star-Spangled Banner, however, these are the recordings most commonly used and referred to.

Recommendation:

We recommend that the proposed new rules be approved.

Notice of Rulemaking

Pursuant to Arkansas Code Annotated § 25-15-201 et seq., notice is hereby given that the Arkansas State Board of Education and the Division of Elementary and Secondary Education are considering amendments to the following DESE Rules and are releasing them for public comment: Educator Licensure, The Star-Spangled Banner, Student Special Needs Funding, Declining Enrollment and Student Growth Funding, and Required Training for School Board Members.

A public hearing regarding these amended and new rules will be held on March 1, 2022 at 1:30 p.m. at the Arkansas Department of Education, Four Capitol Mall, Little Rock, AR, 72201.

Written comments regarding these proposed rules may be mailed to the Office of Legal Services at Four Capitol Mall, Room 301A, Little Rock, AR 72201. Comments also may be emailed to ADE.RulesComments@ade.arkansas.gov. A copy of the proposed rules can be found on the Division's website at: <http://www.arkansased.org/divisions/legal/rules/pending>. Copies also may be obtained by contacting ADE's Office of Legal Services at the above address or via phone at (501) 682-4227.