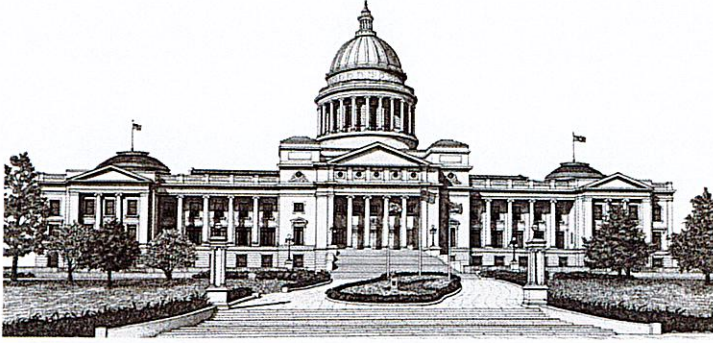


# ARKANSAS REGISTER

## 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 Shastady Wagner E-mail shastady.wagner@ade.arkansas.gov Phone 501-682-4899

Statutory Authority for Promulgating Rules Ark. Code Ann. §§ 6-18-2001 et seq.

Rule Title: Division of Elementary and Secondary Education Rules Governing School Counseling Programs

### Intended Effective Date

(Check One)

<input type="checkbox"/> Emergency (ACA 25-15-204)	Legal Notice Published .....	<u>11/27, 28, 29/2022</u>
<input checked="" type="checkbox"/> 10 Days After Filing (ACA 25-15-204)	Final Date for Public Comment .....	<u>12/27/22</u>
<input type="checkbox"/> Other _____ (Must be more than 10 days after filing date.)	Reviewed by Legislative Council .....	<u>7/21/23</u>
	Adopted by State Agency .....	<u>5/11/23</u>

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

Shastady Wagner

shastady.wagner@ade.arkansas.gov

7/24/2023

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.)

Shastady Wagner  
Signature

501-682-1958

Phone Number

shastady.wagner@ade.arkansas.gov

E-mail Address

Attorney Supervisor, Arkansas Department of Education

Title

7/24/2023

Date

**ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION  
RULES GOVERNING SCHOOL COUNSELING PROGRAMS  
Effective August 3, 2023**

**1.00 REGULATORY AUTHORITY AND PURPOSE**

- 1.01 These rules shall be known as the Arkansas Department of Education Division of Elementary and Secondary Education Rules Governing School Counseling Programs.
- 1.02 These rules are enacted pursuant to the Arkansas State Board of Education's authority under Ark. Code Ann. §§ 6-18-2005 and 25-15-201, et seq.
- 1.03 The purpose of these rules is to implement Ark. Code Ann. § 6-18-2001, et seq. and to establish rules for comprehensive school counseling programs.

**2.00 DEFINITIONS**

- 2.01 "Accelerated learning" means advanced level coursework or academic opportunities in correlation with the student's success plan developed per Ark. Code Ann. § 6-15-2911.
- 2.02 "Administrative activities" means activities that are not directly related to the comprehensive school counseling program and are absent of any direct or indirect student services or interaction.
- 2.03 "Administrative conference" means a meeting during which the school counselor and administration discuss and agree upon the comprehensive school counseling program.
- 2.04 "Advisory council" means a representative group of stakeholders that reviews the comprehensive school counseling program and provides feedback and recommendations to the school counseling staff, school administration, and school district.
- 2.05 "Direct services" means multi-tiered services provided through face-to-face contact with students.
- 2.06 "Division" means Division of Elementary and Secondary Education.
- 2.07 "Indirect services" means consultations between a student, a parent or legal guardian, school staff, and community agencies concerning a student's academic, career, and social and emotional needs.
- 2.08 "Multi-tiered services" means a structured responsive framework of multi-level supports for academic, career, and emotional development. The tiers of the

framework are as follows:

- 2.08.1 Tier I – Foundational preventative instruction, programming, and initiatives to promote the well-being of all students;
- 2.08.2 Tier II – Targeted interventions for individual group needs; and
- 2.08.3 Tier III – Most intensive and individualized interventions for specific student needs.

### **3.00 PROGRAM IMPLEMENTATION**

3.01 Each public school district shall:

- 3.01.1 Develop and implement a comprehensive school counseling program that:
  - 3.01.1.1 Is implemented by an Arkansas-certified school counselor, a counselor serving under an additional licensure plan, or a school employee acting as a school counselor under a waiver granted under Ark. Code Ann. § 6-15-103(c);
  - 3.01.1.2 Is a single school district plan that is systematically aligned to kindergarten through grade twelve (K-12) and contains the four components to provide direct and indirect services for all students as outlined in Section 4.00 of these rules;
  - 3.01.1.3 Utilizes state and nationally recognized counselor frameworks; and
  - 3.01.1.4 Is updated and posted on the district’s website under “state-required information” by August 1 of each year.
- 3.01.2 Allot sufficient time for the school counselor to carry out the duties stated in the comprehensive school counseling plan required under Ark. Code Ann. § 6-18-2003.
  - 3.01.2.1 During student contact days, a school counselor shall spend at least ninety percent (90%) of his or her working time providing direct and indirect services to students. Services may be provided in collaboration with other school personnel.
  - 3.01.2.2 Regularly-scheduled classroom guidance shall be limited to forty-minute class sessions, not to exceed three (3) class sessions per day and not to exceed ten (10) class sessions per week.

3.01.2.3 Administrative activities shall not exceed more than ten percent (10%) of the school counselor's time spent working during student contact days.

3.01.2.3.1 Administrative activities provided by a school counselor in collaboration with other school personnel include, without limitation:

3.01.2.3.1.1 Coordinating state assessments, cognitive achievement assessments, advanced placement programs, and language acquisition testing programs;

3.01.2.3.1.2 Developing master schedules;

3.01.2.3.1.3 Coordinating of:

3.01.2.3.1.3.1 Teams convened under Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112;

3.01.2.3.1.3.2 Response-to-intervention teams;

3.01.2.3.1.3.3 English language learner programs;

3.01.2.3.1.3.4 Parental involvement or family engagement programs;

3.01.2.3.1.3.5 Positive behavioral intervention support programs;

3.01.2.3.1.3.6 Data entry; and

3.01.2.3.1.3.7 Advanced placement and gifted and talented programs; and

3.01.2.3.1.3 Monitoring students in common areas such as the cafeteria, hallway, playground, and bus lines.

3.01.2.3.2 Administrative activities do not include:

3.01.2.3.2.1 Professional learning, professional networking, or professional conferences that are directly related to or aligned with the comprehensive school counseling program; or

3.01.2.3.2.2 Facilitation of administrative conferences or advisory council meetings.

3.01.2.4 Compliance with requirements of Sections 3.01.2.1 and 3.01.2.3 of these rules will be assessed based on data as reported in the school counseling plan, the Arkansas Annual Administrative Conference Form, and data reported through Public School Accountability.

3.01.3 By September 1, 2024 and every four (4) years following, allot time for youth mental health training, as prescribed by the State Board, per Ark. Code Ann. § 6-18-2004(d).

#### **4.00 COMPREHENSIVE SCHOOL COUNSELING PLAN COMPONENTS**

##### **4.01 Foundation**

4.01.1 Foundation includes, but is not limited to, the following:

4.01.1.1 Belief statements;

4.01.1.2 Vision statement;

4.01.1.3 Mission statement; and

4.01.1.4 Program goal(s).

4.01.1.4.1 Program goals include goals that are developed annually based on multi-level school data and that are aligned with the vision and mission statements that are shared with stakeholders to ensure equitable access to opportunities for all students.

##### **4.02 Management**

4.02.1 Management utilizes assessments, tools and other data to develop and implement a comprehensive school counseling program, includes but

is not limited to:

4.02.1.1 Identification of student needs through a multilevel school data review that includes, without limitation:

4.02.1.1.1 Data analysis;

4.02.1.1.2 Use-of-time data review;

4.02.1.1.3 Communication and contact with administrators, parents, students, stakeholders;

4.02.1.1.4 Advisory council meetings;

4.02.1.1.5 Administrative conferences; and

4.02.1.1.6 Developing school counseling annual calendar.

#### 4.03 Delivery

4.03.1 Delivery focuses on direct and indirect services through the implementation of a comprehensive school counseling program.

4.03.2 Direct services include:

4.03.2.1 Social and emotional learning programs designed to support students, including multi-tiered services, without limitation, that:

4.03.2.1.1 Provide orientation programs for new students and transferring students at each level of education;

4.03.2.1.2 Improve culture and climate in the school so that all students can feel that they are in a safe and supportive environment;

4.03.2.1.3 Promote cultural and social awareness, personal management, positive communication, relationship skills, collaboration with others, and responsible decision-making;

4.03.2.1.4 Aid students in the development of conflict-resolution skills;

4.03.2.1.5 Provide interventions for students who are exhibiting dangerous behaviors such as drug use, self-harm, or gang activity;

4.03.2.1.6 Provide bullying prevention skills to support students, including, without limitation:

4.03.2.1.6.1 Protocols for responding to bullying that is occurring in the school;

4.03.2.1.6.2 Strategies that support a student who is being bullied;

4.03.2.1.6.3 Strategies that help a bystander speak out against bullying; and

4.03.2.1.6.4 Training programs for school employees regarding how to recognize bullying behaviors.

4.03.2.1.7 Provide age-appropriate suicide awareness and prevention, including, without limitation:

4.03.2.1.7.1 Strategies that help identify a student who is at risk for suicide;

4.03.2.1.7.2 Strategies and protocols that help a student who is at risk for suicide; and

4.03.2.1.7.3 Protocols for responding to a suicide death.

4.03.2.2 Providing academic advisement services, including, without limitation:

4.03.2.2.1 Guidance in understanding the relationship between classroom performance and success in school and beyond;

4.03.2.2.2 Developing an individual planning system to guide a student to access and monitor the student's own educational, career, social, and emotional progress;

4.03.2.2.3 Guiding a student along the pathways to graduation;

4.03.2.2.4 Promoting accelerated learning opportunities;

4.03.2.2.5 Addressing academic deficits and the

accessibility of resources;

4.03.2.2.6 Providing student assessment reviews, interest inventories, or academic results needed to develop, review, and revise a student's plan of study;

4.03.2.2.7 Providing support to encourage students to reach their full potential so they are more likely to engage in rigorous coursework and take advantage of postsecondary opportunities;

4.03.2.2.8 Intervening with students who are at risk of dropping out of school; and

4.03.2.3 Providing a career planning process that includes, without limitation:

4.03.2.3.1 Assisting students in college and career planning by using age-appropriate resources to help identify career interests and aptitudes;

4.03.2.3.2 Guiding a student in goal-setting experiences and course selection aligned with the student's post-secondary goals;

4.03.2.3.3 Providing guidance to students in understanding the advantages of completing career certifications and internships; and

4.03.2.3.4 Following up with high school graduates.

4.03.3 Indirect services include, but are not limited to:

4.03.3.1 Interpreting augmented, criterion-referenced, or norm-referenced assessments;

4.03.3.2 Delivering information, such as workshops on preparing for college, financial aid, and career opportunities, to a parent or legal guardian;

4.03.3.3 Encouraging a parent or legal guardian to support his or her student's learning and career planning processes;

4.03.3.4 Serving as a contributing member of decision-making teams, which include, without limitation:



- 4.03.3.4.1 Teams convened under Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112;
- 4.03.3.4.2 Response-to-intervention and multi-tiered services teams;
- 4.03.3.4.3 English language learner programs;
- 4.03.3.4.4 Parental involvement or family engagement programs;
- 4.03.3.4.5 Positive behavioral intervention and support programs; and
- 4.03.3.4.6 Advanced Placement and gifted and talented programs.

#### 4.04 Accountability

4.04.1 Accountability ensures regular analysis of the comprehensive school counseling plan.

4.04.1.1 As needed, the school counselor, in collaboration with the building administrator and other stakeholders will review the program annually and update as needed using the following tools:

4.04.1.1.1 Program assessment; and

4.04.1.1.2 Program goal results data.

4.04.1.2 The comprehensive school counseling program shall follow the comprehensive school counseling program guidance provided by the division.

### **5.00 MONITORING AND SUPPORT**

5.01 The division shall monitor each public school district to ensure implementation and compliance with these rules and Ark. Code Ann. § 6-18-2001, et seq.

5.02 Failure by a public school to comply with these rules is a violation of the division's Rules Governing the Standards for Accreditation of Arkansas Public Schools and School Districts.

5.03 The division shall:

- 5.03.1 Employ at least one (1) individual who is certified as a school counselor;
- 5.03.2 Provide a multi-tiered system of support to public school districts to assist in complying with the requirements of these rules and Ark. Code Ann. § 6-18-2001, et seq.; and
- 5.03.3 Provide guidance and technical assistance to public school districts in order to support equitable access to counseling services.

## FINANCIAL IMPACT STATEMENT

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Education

**DIVISION** Division of Elementary and Secondary Education

**PERSON COMPLETING THIS STATEMENT**

**TELEPHONE NO.** (501) 683-1876 **FAX NO.** (501) 682-4249 **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** DESE Rules Governing School Counseling Programs

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 \$ 0.00

Total \$ 0.00

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 \$ 0.00

Total \$ 0.00

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

\$ 0

\$ 0

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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

\$ 0

\$ 0

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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.