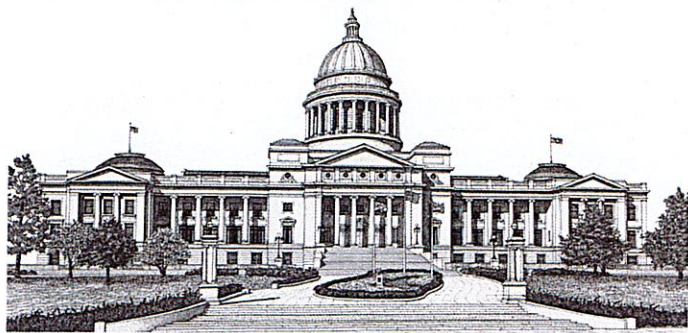


# ARKANSAS REGISTER

## Transmittal Sheet

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



Secretary of State

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For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Division of Elementary and Secondary Education

Department Department of Education

Contact Andres Rhodes E-mail andres.rhodes@ade.arkansas.gov Phone 501-682-4234

Statutory Authority for Promulgating Rules Ark. Code Ann. § 6-18-2204

Rule Title: DESE Rules Governing the Arkansas Student Protection Act

### Intended Effective Date

(Check One)

Date

☐ Emergency (ACA 25-15-204)

Legal Notice Published ..... 3/22/2023

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

Final Date for Public Comment ..... 4/24/2024

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

Reviewed by Legislatice Council ..... 6/20/2024

Adopted by State Agency ..... 5/9/2024

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

LaBria Brown

LaBria.Brown@ade.arkansas.gov

6/21/2024


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

501-682-4202

daniel.shults@ade.arkansas.gov

Phone Number

E-mail Address

Deputy Legal Counsel

Title

July 21, 2024

Date

**DIVISION OF ELEMENTARY AND SECONDARY EDUCATION  
RULES GOVERNING THE ARKANSAS STUDENT PROTECTION ACT  
Effective July 1, 2024**

**1.0 REGULATORY AUTHORITY**

- 1.1** These Rules shall be known as the Division of Elementary and Secondary Education Rules Governing the Arkansas Student Protection Act.
- 1.2** These Rules are enacted pursuant to the Arkansas State Board of Education's authority under Ark. Code Ann. § 6-18-2201 *et seq.*

**2.0 DEFINITIONS**

- 2.1** "Abortion" means the act of using or prescribing an instrument, medicine, drug, device, or other substance or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child. "Abortion" does not include an action taken with the intent to:
  - 2.1.1** Save the life of the mother;
  - 2.1.2** Save the life or preserve the health of the unborn child;
  - 2.1.3** Remove a dead unborn child caused by spontaneous abortion; or
  - 2.1.4** Remove an ectopic pregnancy.
- 2.2** "Abortion referral" means the act of recommending a pregnant woman to a doctor, clinic, or other person or entity for the purpose of obtaining or learning about obtaining an abortion.
- 2.3** "Affiliate" means an individual or entity that, directly or indirectly, owns, controls, is controlled by, or is under the common control of another person or entity, in whole or in part, or a subsidiary, parent, or sibling entity.
- 2.4** "Division" means the Division of Elementary and Secondary Education.
- 2.04** "Transaction" means a formal or informal agreement, contract, or arrangement of any kind between a public school or open-enrollment public charter school and a private entity, regardless of whether the private entity or the public school or open-enrollment public charter school receives anything of value in return.

### **3.0 PROHIBITED TRANSACTIONS AND ENFORCEMENT**

**3.1** A public school or open-enrollment public charter school shall not knowingly enter into any type of transaction with an individual or entity that:

3.01.1 Performs abortions;

3.01.2 Induces abortions; ~~or~~

3.01.3 Provides abortions; or

3.01.4 Offers or provides abortion referrals.

**3.2** Each public school and open-enrollment public charter school shall promulgate policies for the implementation of these Rules and Ark. Code Ann. § 6-18-2201 *et seq.*

**3.3** A public school or open-enrollment public charter school that knowingly violates these Rules and Ark. Code Ann. § 6-18-2201 *et seq.* shall, at the direction of the Division or the State Board of Education, appear before the State Board at its next regularly scheduled meeting, for the purpose of determining:

3.3.1 Why these Rules and Ark. Code Ann. § 6-18-2201 *et seq.* were violated;  
and

3.3.2 How to prevent a violation of these Rules and Ark. Code Ann. § 6-18-2201 *et seq.* in the future.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY.**

**DEPARTMENT** \_\_\_\_\_  
**BOARD/COMMISSION** \_\_\_\_\_  
**PERSON COMPLETING THIS STATEMENT** \_\_\_\_\_  
**TELEPHONE NO.** \_\_\_\_\_ **EMAIL** \_\_\_\_\_

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

**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 no, please explain:

(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 reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

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**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

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

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

**Current Fiscal Year**

\$ \_\_\_\_\_

**Next Fiscal Year**

\$ \_\_\_\_\_

6. What is the total estimated cost by fiscal year to a state, county, or 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.