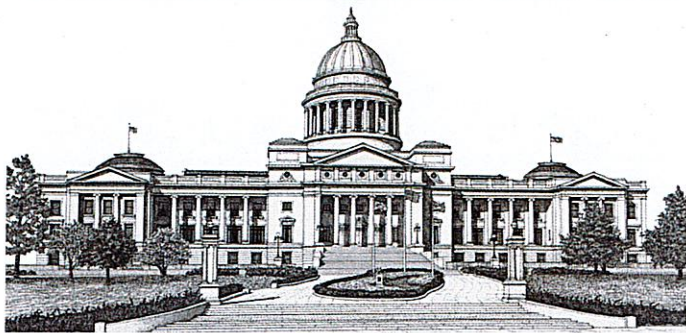


ARKANSAS REGISTER

Transmittal Sheet

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



Secretary of State

Mark Martin

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Little Rock, Arkansas 72201-1094

(501) 682-5070

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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. 6-11-105, 6-15-3201 et seq., 25-15-201 et seq.

Rule Title: Division of Elementary and Secondary Rule Governing School Transformation Contracts

Intended Effective Date
(Check One)

Date

☐ Emergency (ACA 25-15-204)

Legal Notice Published 04/14/2024

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

Final Date for Public Comment 05/15/2024

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

Reviewed by Legislative Council 07/30/2024

Adopted by State Agency 6/13/2024

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

Stephen Reynolds

stephen.reynolds@ade.arkansas.gov

July 30, 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

501-682-4899

Phone Number

stephen.reynolds@ade.arkansas.gov

E-mail Address

Associate Legal Counsel

Title

07/30/2024

Date

**DIVISION OF ELEMENTARY AND SECONDARY EDUCATION RULE GOVERNING
SCHOOL TRANSFORMATION CONTRACTS
Effective date: August 10, 2024**

1.00 AUTHORITY

- 1.01 The State Board of Education enacted these rules pursuant to its authority as set forth in Ark. Code Ann. §§ 6-11-105, 6-15-3204, and 25-15-201 et seq.

2.00 DEFINITIONS

- 2.01 “Public school zone” means the geographic area designated by a public school district for attendance in a public school that is a proposed transformation campus.
- 2.02 “School transformation contract” means a contract between a transformation campus operator and a public school or public school district that meets the criteria in section 3.01 for the purpose of creating a transformation campus.
- 2.03 “Third party management contract” means a contract between a public school or public school district and a transformation campus operator for education services, that is not a school transformation contract.
- 2.04 “Transformation campus” means a public school or school district that is operated by a transformation campus operator with the intent to return to management as a traditional public school or school district after accelerated, meaningful, and sustainable increases in student achievement have been achieved.
- 2.05 “Transformation campus operator” means the governing body of an open-enrollment public charter school or another entity approved by the State Board of Education that enters into or intends to enter into a school transformation contract with a public school or public school district under this rule.

3.00 SCHOOL ELIGIBILITY

- 3.01 A public school district with a "D" or "F" school rating according to the most recent results of the school rating system under Arkansas Code § 6-15-2101 et seq., or a school district classified as in need of Level 5 - Intensive support by the State Board of Education shall be eligible for an exemption from sanctions or action under Arkansas Code §§ 6-15-2915, 6-15-2916, and 6-15-2917, and qualify for funding provided under Arkansas Code § 6-15-3203 and section 6.04 of this rule if the public school district board of directors enters into a school transformation contract to operate a transformation campus with:

- 3.01.1 The governing body of an open-enrollment public charter school; or

3.01.2 Another entity approved by the state board.

3.02 Nothing in this rule shall prohibit a public school or open-enrollment public charter school who does not meet the criteria in section 3.01 from entering into a third-party management contract with a transformation campus operator to provide education services to the public school or open-enrollment public charter school.

4.00 PROCEDURE FOR SCHOOL TRANSFORMATION CONTRACTS

4.01 A school district board of directors or the Commissioner of Elementary and Secondary Education acting in lieu of a school district board of directors, with approval from the State Board of Education, may enter into a school transformation contract with:

4.01.1 An entity approved by the state board under § 6-15-3201 and determined to be in good standing; or

4.01.2 The governing body of a current or former open-enrollment public charter school, if the entity:

4.01.2.1 Has not previously operated an open-enrollment public charter school in which the charter expired or was revoked or surrendered; and

4.01.2.2 For the three (3) school years preceding the school year of the proposed school transformation, all open-enrollment public charter schools under the entity's governance had:

4.01.2.2.a An overall performance rating of "C" or higher according to the school rating system under § 6-15-2101 et seq., or an equivalent performance rating in the accountability system of the state in which it currently operates; and

4.01.2.2.b Had no significant findings on the prior year annual financial audit.

4.02 A public school district proposing to enter into a contract under this section shall notify the commissioner of the public school district's intent to enter into the contract at least ninety (90) days prior to the school year in which the contract is effective.

4.03 If a transformation campus operator requests a new charter or seeks to amend its existing charter to include the transformation campus, then the state public charter

authorizer will review the public school or public school district's request to enter into a school transformation contract and shall decide whether to approve a school transformation contract, subject to review by the state board.

- 4.04 The division shall notify a public school district whether a proposed school transformation contract is approved not later than sixty (60) days after the date the state board and the commissioner received notice of the proposed contract and all information required by the commissioner to be submitted has been received.

5.00 TERMS OF SCHOOL TRANSFORMATION CONTRACTS

- 5.01 A school transformation contract that is entered into under this rule shall:

- 5.01.1 Provide that any student residing in the public school zone as it existed before the operation of the public school zone under the contract shall be admitted for enrollment at the public school transformation campus;

5.01.1.1 For purposes of this rule, "any student" includes students with special needs under the Individuals With Disabilities Act, Section 504 of the Rehabilitation Act, Americans With Disabilities Act, an eligible student under the National School Lunch Program, a student identified as homeless under the McKinney-Vento Act, or a public school student with protections under any other Arkansas or federal law.

- 5.01.2 Establish the following enrollment preference order for students who do not reside in the public school zone:

5.01.2.1 Other students who reside in the public school district in which the public school transformation campus is located; and

5.01.2.2 Students who reside outside the public school district in which the public school transformation campus is located;

- 5.01.3 Ensure comprehensive management of the transformation campus by the transformation campus operator including:

5.01.3.1 Administrative operation and management of the transformation campus;

5.01.3.2 Student and school accountability;

5.01.3.3 School safety;

5.01.3.4 Maintenance of facilities;

- 5.01.3.5 Safe, effective, and efficient transportation;
- 5.01.3.6 Food service programs;
- 5.01.3.7 Special education and related services;
- 5.01.3.8 Extracurricular activities, programs, and services;
- 5.01.3.9 Fiscal management and accountability services;
- 5.01.3.10 Professional development programs and services;
- 5.01.3.11 Curriculum development and support;
- 5.01.3.12 Academic assessment and support services;
- 5.01.3.13 Parent and student engagement programs and support;
- 5.01.3.14 Student counseling support programs and services;
- 5.01.3.15 Career and technical educational programs;
- 5.01.3.16 Gifted and talented and other enrichment programs; and
- 5.01.3.17 Other services and programs necessary to comply with the Standards of Accreditation, Arkansas law and division rules;
- 5.01.4 Make clear that the transformation campus operator acts as the executive of the transformation campus and the public school board of directors retains its powers and responsibilities with respect to oversight and governance of the transformation campus.
- 5.01.5 Identify annual goals, milestones, and performance targets that the transformation campus operator intends to achieve that will enable the transformation campus to return to management as a traditional public school or school district.
 - 5.01.5.1 Goals, milestones, and performance targets shall reflect without limitation:
 - 5.01.5.1.a Improved academic outcomes for students;
 - 5.01.5.1.b Student academic growth and performance as measured by state assessments; and
 - 5.01.5.1.c Increased fiscal sustainability;

- 5.01.5.2 The specific objectives under section 5.01.6 may be amended in the contract by agreement of the parties.
- 5.01.6 Include a provision by which a public school district or the State Board of Education may terminate the school transformation contract early if the goals identified in the school transformation contract are not met.
- 5.01.7 Include a provision by which a public school district and transformation campus operator can terminate the school transformation contract if the continued performance under the contract would lead to less desirable outcomes for students than the public school or public school district's previous performance prior to the transformation contract.
- 5.01.8 Include clear recordkeeping requirements for budgeting, invoicing, and expenditure and expense management.
- 5.02 This rule does not prohibit a contract between a transformation campus operator and another entity for the provision of services for a transformation campus.
 - 5.02.1 However, a contract between a transformation campus operator and another entity for the provisions of services for a transformation campus shall be for the benefit of the public school or public school district for which the transformation campus operator is operating the transformation campus.
 - 5.02.1.1 Any financial benefit resulting from a contract between a transformation campus operator and another entity for the provisions of services for a transformation campus shall be passed on to the public school district for which the transformation campus operator is operating the transformation campus.
- 5.03 A transformation campus operator shall provide quarterly reports to the division for the initial two (2) years of the transformation contract, during which the school is receiving an alternate letter grade, under section 6.02.
 - 5.03.1 Reports under section 5.03 shall include information sufficient to enable the division to monitor the academic performance and educational efficiency of the transformation campus including, without limitation:
 - 5.03.1.1 Enrollment data;
 - 5.03.1.2 Academic growth;
 - 5.03.1.3 Disciplinary incidents and actions; and

5.03.1.4 Attendance rate.

5.03.2 The division may require any party to the transformation contract to provide any additional information the division determines is necessary to evaluate performance and may require quarterly reports beyond the initial two-year period.

5.04 A transformation contract for a school within a school district under state authority shall not extend beyond the time the district is under state authority.

5.04.1 The division shall annually review the quarterly reports submitted by the school and any additional information requested by the division to determine whether progress has been made during the transformation period.

5.04.2 If the division determines that sufficient growth has not been made, the commissioner shall request that the state board terminate the transformation contract immediately and consider other options available to the state board for a school district under state authority.

5.05 A school district that is not under state authority may enter into a transformation contract for one (1) or more of its schools, for a term mutually agreed upon by both parties to the contract.

5.06 A transformation campus operator is not prohibited from fundraising in its own name in accordance with Arkansas and federal law.

5.06.1 However, any and all grants, donations, or funds received by the transformation campus operator for the benefit of the public school district for which the transformation campus operator is operating the transformation campus shall be public school district's property and used in accordance with the purpose for which the grants, donations, or funds were given, subject to Arkansas and federal law.

5.07 All facilities, buildings, and land that belonged to the public school district prior to the execution of a school transformation contract shall remain the property of the public school district.

5.07.1 The parties may contract for use of the public school district's facilities, buildings, and land, subject to the requirements of Arkansas and federal law.

5.08 All facilities, buildings, and land that belonged to the transformation campus operator prior to the execution of a school transformation contract shall remain the property of the transformation campus operator.

5.09 A transformation campus under this rule is a public school and subject to all requirements for public schools under Department of Education rules and Arkansas law.

5.09.1 A transformation campus under this rule shall keep all waivers that were granted by the charter authorizer to the transformation campus operator, or waivers that were granted by the State Board of Education to the public school district, at the time of execution of the school transformation contract.

5.09.1.1 However, a transformation campus operator may apply for additional waivers in accordance with the Division of Elementary and Secondary Education Rules Governing Public School Waivers.

6.00 INCENTIVES FOR SCHOOL TRANSFORMATION CONTRACTS

6.01 The Division of Elementary and Secondary Education shall encourage transformation campus operators and public school districts with eligible schools, to enter into transformation contracts.

6.02 For purposes of accountability, during the first two (2) full school years of operation under a school transformation contract, a public school transformation campus shall be:

6.02.1 Awarded with an alternate letter grade, which shall be established and defined by the State Board of Education.

6.02.1.1 While a public school transformation campus is receiving an alternate letter grade under section 6.02.1, the State Board of Education shall not impose a sanction or take action against the public school transformation campus for failure to satisfy academic performance standards; and

6.02.2 Required to post its status as a public school transformation campus on the school district's website.

6.03 Following the first two (2) years of transformation in which an alternate letter grade is awarded to the transformation campus, the division shall evaluate and assign all performance ratings to the public school district transformation campus in a manner consistent with 6-15-2101, et seq. and the division's Rules Governing the Public School Rating System on Annual School Performance Reports and the School Recognition Program.

6.04 The division may provide, where allowable, financial incentives to support transformations under this rule.

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT _____
BOARD/COMMISSION _____
BOARD/COMMISSION DIRECTOR _____
CONTACT PERSON _____
ADDRESS _____
PHONE NO. _____ EMAIL _____
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? _____
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? _____

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

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.