ARKANSAS REGISTER

Proposed Rule Cover Sheet

Secretary of State
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Name of Department Department of Education

Agency or Division Name Division of Elementary and Secondary Education

Other Subdivision or Department, If Applicable

Previous Agency Name, If Applicable

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Name of Rule Arkansas Division of Elementary and Secondary Education Rules Governing the Succeed Scholarship Program

Newspaper Name Arkansas Democrat-Gazette

Date of Publishing May 10-12, 2024

Final Date for Public Comment June 10, 2024

Location and Time of Public Meeting ADE Auditorium, Four Capitol Mall, Little Rock, AR 72201 on May 31, 2024 at 1:30 p.m.

Arkansas Division of Elementary and Secondary Education
Rules Governing the Succeed Scholarship Program
Effective December 12, 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 6-41-901 et seq., and Acts 689 and 741 of 2021.

1.02 These Rules shall be known as the Arkansas Division of Elementary and Secondary Education Rules Governing the Succeed Scholarship Program.

2.00 Purpose

2.01 The purpose of these Rules is to establish guidelines for the implementation of the Succeed Scholarship Program in order to provide a scholarship to a private school of choice for students in foster care, and students with disabilities in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq, and students who are children of a member of the uniformed services.

3.00 Definitions

3.01 "Division" means the Arkansas Division of Elementary and Secondary Education.

3.02 "Foster care" means the care of a child by a group home or group facility on a twenty-four-hour-a-day basis away from the home of the child's parent or parents;

3.03 "Foster parent" means the responsible official or officials of a group home or group facility that provides foster care to a child;

3.04 "Member of the uniformed services" means:

3.04.1 An active duty or reserve component member of the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Space Force, or United States Coast Guard;

3.04.2 A member of the National Guard;

3.04.3 A member of the National Oceanic and Atmospheric Administration Commissioned Officer Corps; or

3.04.4 A member of the active or reserve component of the United States Commissioned Corps of the Public Health Service;

3.05 "Parent" means a student's parent or foster parent;

3.06 "Scholarship Payment" means a disbursement to the parent or legal guardian of a student participating in the Succeed Scholarship Program contingent upon appropriation and funding for the purpose of implementing the Succeed Scholarship Program.

3.07 "School District" is means a geographic area that qualifies as a taxing unit for purposes of *ad valorem* property taxes under Title 26 of the Arkansas Code, governed by an elected board of directors, or under the administrative control of the State Board or the Commissioner of Education in place of an elected board of directors; or an open-enrollment public charter school, as defined in Ark. Code Ann. § 6-23-103.

3.08 "School Year" means the year beginning July 1 of one calendar year and ending June 30 of the next calendar year.

3.09 "Student with a disability means a student who has been:

3.09.1 Identified by a public school district as having a disability consistent with the Individuals with Disabilities Education Act, 20 U.S.C. § 1401 et seq.; or

3.09.2 Medically diagnosed by a licensed physician as a child with a disability under the Individuals with Disabilities Education Act, 20 U.S.C. § 1401(3)(A).

4.00 Student Eligibility

4.01 A parent or legal guardian of a student in this state may apply for a Succeed Scholarship to enroll his or her child in an approved private school in this state if:

4.01.1 The student is currently enrolled in a public school district and has attended public school for at least the one (1) full school year immediately prior to the school year for which the scholarship payments would be disbursed;

4.01.1.1 Section 4.01.1 does not apply if:

4.01.1.1.1 The student is a dependent of an active duty member of any branch of the United States Armed Forces, pursuant to Title 10 or Title 32 of the U.S. Code; or

4.01.1.1.2 The Superintendent of the student's resident school district in this state waives the requirement;

4.01.2 The student:

4.01.2.1 Is in foster care as defined in these rules or has been in the foster care system and achieved permanency through adoption, reunification, or permanent guardianship;

4.01.2.2 Has been identified by a public school district as having a disability consistent with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as evidenced by written notice of the decision from the public school district, or has been medically diagnosed by a licensed physician as a child with a disability under 20 U.S.C. § 1401(3)(A);

4.01.2.3 Participated in the Succeed Scholarship Program during the prior school year and has not yet graduated from high school or attained twenty-one (21) years of age; or

4.01.2.4 Is a child of a member of the uniformed services as defined in these rules.

4.01.2.4.1 An eligible student who is a child of a member of the uniformed services may receive a scholarship only if funds remain after all other eligible students have received a scholarship.

4.01.3 The student has been accepted for admission into a private school that is eligible to participate in the Succeed Scholarship Program.;

4.01.4 The parent has notified the student's current school district of the request for a scholarship at least sixty (60) days before the date of the first scholarship payment; and

4.01.5 For students in foster care, the Department of Human Services approves the student's placement in the private school.

4.02 The parent or legal guardian shall notify the superintendent of the student's current and resident school district(s) within five (5) business days of submitting the application.

4.03 If a student is accepted for admission into a private school upon the availability of space, a parent or legal guardian shall notify the student's current and resident

school district(s) at least sixty (60) days before the student enrolls in the private school and receives the first scholarship payment.

4.04 The Division shall not approve more than twenty (20) scholarships per academic year for students in foster care.

4.05 For purposes of continuity of educational choice, the Succeed Scholarship Program payments made pursuant to Ark. Code Ann. § 6-41-901 et seq. and these rules, shall remain in effect until a student who is participating in the Succeed Scholarship Program enrolls in a public school district or open-enrollment public charter school, enrolls in a private school not eligible to participate in the Succeed Scholarship Program, files a Notice of Intent to home school, graduates from high school, or attains twenty-one (21) years of age, whichever occurs first.

5.00 Private School Eligibility

5.01 A private school shall notify the Division of its intent to participate in the Succeed Scholarship Program.

5.01.1 The notice shall specify the grade levels and services that the private school has available for severely disabled students who are participating in the program.

5.01.2 The notice shall contain a complete description of the private school's disciplinary procedures, code(s) of conduct, and parental involvement requirements.

5.01.2.1 The Division shall maintain a record of the descriptions under Section 5.01.2 and make the record available on the Division's website.

5.02 The Division shall approve a private school as eligible to participate in the program if the private school:

5.02.1 Complies with one of the following:

5.02.1.1 Meets the accreditation requirements set by:

5.02.1.1.1 The State Board of Education;

5.02.1.1.2 The Arkansas Nonpublic School Accrediting Association or its successor; or

5.02.1.1.3 Another accrediting association recognized by the State Board of Education as providing services to severely disabled individuals; or

5.02.1.2 Is an associate member of or has applied for accreditation by the Arkansas Nonpublic School Accrediting Association or its successor or another accrediting association recognized by the State Board of Education as providing services to severely disabled individuals.

5.02.1.2.1 A private school shall no longer be eligible if:

5.02.1.2.1.1 The private school has not received accreditation within four (4) years of becoming eligible under Section 5.02.1.2;

5.02.1.2.1.2 The accrediting association determines that the private school is ineligible or unable to continue the accreditation process; or

5.02.1.2.1.3 It becomes impossible for the private school to obtain accreditation within four (4) years of becoming eligible under Section 5.02.1.2.

5.02.1.2.2 A participating private school shall notify the Division of loss of accreditation or any action making the school ineligible pursuant to 5.02.1.2.1 within thirty (30) days.

5.02.1.2.3 A private school that is not fully accredited shall report annually to the State Board of Education, or its designee, the school's progress towards accreditation.

5.02.2 Demonstrates fiscal soundness by having been in operation for one (1) school year or providing the Division with a statement by a certified public accountant confirming that:

5.02.2.1 The private school is insured; and

5.02.2.2 The private school has sufficient capital or credit to operate in the upcoming school year.

5.02.2.3 In lieu of a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the Division.

5.02.3 Complies with the antidiscrimination provisions of 42 U.S.C. § 2000d;

5.02.4 Meets state and local health and safety requirements and maintains an environment in which the health, safety, and welfare of students is not threatened;

5.02.5 Is academically accountable to the parent or legal guardian for meeting the educational needs of students;

5.02.6 Employs or contracts with only teachers who hold baccalaureate or higher degrees;

5.02.7 Employs or contracts with at least one (1) teacher who holds a current, valid standard license in special education issued by the State Board of Education as evidenced by a copy of the license and contract, if applicable;

5.02.7.1 If, at any point following approval under Section 5.02, an eligible private school no longer employs or contracts with at least one (1) teacher who holds a current, valid standard license in special education, the private school shall notify the parent(s) or legal guardian(s) of any student(s) participating in the program enrolled in or regularly attending the private school and the Division within five (5) days.

5.02.7.2 If the eligible private school is unable to employ or contract with a new teacher who holds a current, valid standard license in special education within thirty (30) days following the notice required by Section 5.02.7.1, the private school shall no longer be eligible for participation in the program and shall immediately notify the Division.

5.02.8 Complies with all state laws and rules governing private schools; and

5.02.9 Adheres to the tenets of its published disciplinary procedures before an expulsion of a student participating in the program.

5.03 The Division shall maintain a list of private schools eligible to participate in the program and make the list available on the Division's website.

5.04 An eligible private school shall administer annually or make provisions for a student participating in the program to take a nationally recognized, norm-referenced test as established by the State Board of Education.

5.04.1 A student who is determined by the private school to need an exemption to standardized testing due to the nature of the student's disability, is not required to take the test required under Section 5.04.

5.04.1.1 The private school shall provide a deidentified list of students with an exemption to standardized testing to the state board or its designee annually.

5.04.2 An eligible private school shall annually prepare a portfolio that provides information on a student's progress to the student's parent or legal guardian if a student is exempt from standardized testing as permitted under Section 5.04.1.

5.04.2.1 The private school shall provide a deidentified list of students with portfolios and a general summary of the information provided in the portfolios to the state board or its designee annually.

5.04.3 An eligible private school shall provide annually to the Division, or its designee, in a deidentified format prescribed by the Bureau of Legislative Research in consultation with the Division:

5.04.3.1 A list of students who have taken a nationally recognized norm-referenced test;

5.04.3.2 Each student's test results;

5.04.3.3 A list of students with an individualized education program or individualized service plan that provides for an exemption to standardized testing;

5.04.3.4 A list of students with portfolios pursuant to 5.04.2;

5.04.3.5 A general summary of the information provided in each portfolio;

5.04.3.6 A list of all students who received a Succeed Scholarship and have been dismissed by the private school;

5.04.3.7 A list of all students who received a Succeed Scholarship and voluntarily returned to a traditional public school;

5.04.3.8 A list of students in foster care who received a Succeed Scholarship;

5.04.3.9 A list of students in foster care who received a Succeed Scholarship and have been dismissed by the private school;

5.04.3.10 A list of students in foster care who received a Succeed Scholarship and have been removed by the Department of Human Services;

5.04.3.11 A report of administrative costs required to implement the Succeed Scholarship Program; and

5.04.3.12 A report regarding the demographic data of students who received a Succeed Scholarship.

5.05 An eligible private school shall notify the Division if any student participating in the program ceases to be enrolled in or regularly attend the private school for any reason.

5.06 An eligible private school shall annually complete the recertification process established by the Division to continue participation in the program.

5.07 The inability of a private school to meet the requirements under these Rules shall constitute a basis for the ineligibility of the private school to participate in the Succeed Scholarship Program as determined by the State Board of Education or the State Board of Education's designee.

5.08 Any instance of an owner, operator, superintendent, or principal of, or a person who has equivalent decision-making authority over, a private school participating in the Succeed Scholarship Program operating or having operated an educational institution in Arkansas or in another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public shall constitute a basis for the ineligibility of the private school to participate in the program as determined by the State Board of Education or the State Board of Education's designee.

6.00 Responsibilities of Participating Students

6.01 The parent or legal guardian of a student participating in the Succeed Scholarship Program shall:

6.01.1 Select the private school from the list of private schools eligible to participate in the program that is maintained by the Division;

6.01.2 Fully comply with the parental involvement requirements of the private school unless excused by the school for illness or other good cause;

6.01.3 Sign a waiver that releases the State of Arkansas from any legal obligation to provide services or education to the student participating in the program except for funding provided for the program under these Rules;

6.01.4 Sign a waiver that releases the student's resident school district from any legal obligation to provide services or education to the student participating in the program while the student is not enrolled in the student's resident school district as provided under these Rules;

6.01.5 Notify the Division if the student ceases to be enrolled in or regularly attend the private school for any reason; and

6.01.6 Annually complete the recertification process established by the Division to continue participation in the program and the disbursement of scholarship payments.

6.02 A student participating in the program shall:

6.02.1 Attend the private school throughout the school year unless excused by the school for illness or other good cause; and

6.02.1.1 If the parent or legal guardian of a student participating in the program wishes to enroll the student in another private school from the list of private schools eligible to participate in the program, the parent or legal guardian shall:

6.02.1.1.1 Provide proof to the Division that the student has been accepted for admission into another private school that is eligible to participate in the program; and

6.02.1.1.2 Request that the Division approve a reinstatement or transfer of the student's scholarship payments.

6.02.1.1.3 No more than one (1) such request may be made within the same school year.

6.02.2 Fully comply with the code of conduct for the private school.

6.03 The State Board of Education may terminate a scholarship if the student or the student's parent or legal guardian materially fails to comply with the responsibilities under these Rules.

7.00 Scholarship Payments – Funding

7.01 The maximum scholarship available under the Succeed Scholarship Program is the foundation funding amount for the current school year under Ark. Code Ann. § 6-20-2305.

7.02 The amount of the scholarship shall be the amount set forth in Section 7.01 or the amount of tuition and fees for the period of time the student is enrolled in the private school after the student is determined eligible for the program, whichever is less.

7.02.1 For purposes of these rules, "tuition and fees" means expenses determined by a private school to be necessary for the education of a student and required to be paid by a student who is enrolled in the private school, including without limitation expenses related to enrollment, supplies, equipment, access to technology, and services. "Tuition and fees" does not include optional expenses payable to a third party.

7.03 Scholarship payments shall be disbursed to the parent or legal guardian of a student participating in the Succeed Scholarship Program on a monthly basis by the Division or another state agency, person, firm, or corporation designated by the Division to administer and disburse funds.

7.03.1 If the Division designates a third party to administer funds, scholarship payments shall be made from the third party by individual warrant made payable to the student's parent or legal guardian. The parent or legal guardian shall restrictively endorse the warrant to the eligible private school of the parent's or legal guardian's choice and the private school shall verify receipt of payment to the Division.

7.03.2 A third party designated to administer funds must maintain an effective internal control system as outlined by the Division.

7.04 The program shall be funded separately from the Public School Fund and other funds or appropriations designated for public schools.

7.05 The program shall not be funded with county, city, or school district tax revenues.

7.06 If the number of new parent applications exceeds the number of available scholarships for an application cycle, scholarships shall be awarded using a random, anonymous ("lottery") selection process.

7.06.1 Twenty (20) scholarships shall be reserved for students in foster care during the initial lottery each year if a lottery selection process is used.

7.06.2 Any remaining scholarships shall be made available to students with a disability through the lottery process if fewer than twenty (20) students in foster care apply for a scholarship and are eligible for a scholarship.

7.06.3 A weighted lottery process may only be used when necessary to comply with a:

7.06.3.1 Federal court order, or

7.06.3.2 Federal administrative order issued by an appropriate federal agency having proper authority to enforce remedial measures necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, or the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

7.06.4 As part of the random, anonymous lottery process, each application meeting all eligibility requirements will be assigned a number. Numbers will be selected through a random process to determine scholarship recipients.

8.00 Rules and Duties

8.01 The State Board of Education shall adopt rules and develop notices and other documentation necessary to administer the Succeed Scholarship Program that are in the best interest of students.

8.02 The State Board of Education shall not:

8.02.1 Become a party to a contract between a participating private school and the parent or legal guardian of a student participating in the program; or

8.02.2 Make payments to the parent or legal guardian of a student after the State Board of Education is notified from either a participating school or a student's parent or legal guardian that the student is no longer enrolled in or attending a participating private school.

8.02.3 Make payments to the parent or legal guardian of a student enrolled in or attending a private school that the State Board of Education has determined is ineligible to participate in the program.

9.00 Autonomy of Participating Private Schools

9.01 A private school that participates in the Succeed Scholarship Program is not considered an agent or instrumentality of the State of Arkansas or a school district.

9.02 The curriculum and education plan for a student with a disability attending a private school is not subject to the regulatory authority of the State Board of Education.

9.03 As a condition of continued participation in the program, each participating private school shall:

9.03.1 Certify under oath, on a semiannual an annual basis, that any student(s) participating in the program is/are and has/have been enrolled and attending the participating private school except for excused absences.; and

9.03.2 Certify under oath, on an annual basis, that it continues to meet the eligibility criteria required in Section 5.02 for continued participation in the program.

QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT Arkansas Department of Education
BOARD/COMMISSION State Board of Education
BOARD/COMMISSION DIRECTOR
CONTACT PERSON Andres Rhodes
ADDRESS 4 Capitol Mall, Little Rock, AR 72201
PHONE NO. 501-682-4234 **EMAIL** andres.rhodes@ade.arkansas.gov
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING
Andres Rhodes; Daniel Shults
PRESENTER EMAIL(S) andres.rhodes@ade.arkansas.gov; daniel.shults@ade.arkansas.gov

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?
DESE Rules Governing the Succeed Scholarship Program

2. What is the subject of the proposed rule? Special education scholarship program

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.

Act 237 of 2023 repealed the statutory authority for the rule.

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.

The Department is unable to identify two rules that can be repealed.

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).

Ark. Code Ann. 6-11-105

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).

Act 237 of 2023 repealed the statutory authority for the rule.

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

The underlying legislation that this rule was promulgated under was repealed by Act 237 of 2023. Accordingly, this rule is no longer 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).

https://dese.ade.arkansas.gov/Offices/legal/rules/pending

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

If yes, please complete the following:

Date: 05/31/2024

Time: 1:30 pm

Place: ADE Auditorium, Four Capitol Mall, Little Rock, AR 72201

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. 06/10/2024

15. What is the proposed effective date for this rule? August 1, 2024

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 Arkansas Department of Education
BOARD/COMMISSION State Board of Education
PERSON COMPLETING THIS STATEMENT Stephen Reynolds
TELEPHONE NO. 501-682-4899 **EMAIL** stephen.reynolds@ade.arkansas.gov

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 DESE Rules Governing the Succeed Scholarship Program

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	**Next Fiscal Year**
General Revenue_____	General Revenue_____
Federal Funds_____	Federal Funds_____
Cash Funds_____	Cash Funds_____
Special Revenue_____	Special Revenue_____
Other (Identify)_____	Other (Identify)_____
Total$0_____	Total$0_____

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

Current Fiscal Year	**Next Fiscal Year**
General Revenue_____	General Revenue_____
Federal Funds_____	Federal Funds_____
Cash Funds_____	Cash Funds_____
Special Revenue_____	Special Revenue_____
Other (Identify)_____	Other (Identify)_____
Total$0_____	Total$0_____

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**
$0_____	$0_____

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**
$0_____	$0_____

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.

Jacob Oliva
Secretary

Stacy Smith
Deputy Commissioner

State Board of Education

Dr. Sarah Moore
Stuttgart
Chair

Kathy Rollins
Springdale
Vice-Chair

Adrienne Woods
Rogers

Randy Henderson
Blytheville

Lisa Hunter
White Hall

Jeff Wood
Little Rock

Ken Bragg
Sheridan

Leigh Keener
Little Rock

February 2, 2024

Proposed Rule Repeal – Rule Governing Succeed Scholarship Program

PURPOSE

The Division of Elementary and Secondary Education is seeking the Governor's review of proposed rule repeal regarding the Succeed Scholarship Program.

BACKGROUND

Pursuant to Act 1178 of 2015, the Division is charged with promulgating rules regarding the Succeed Scholarship Program, which was codified at Ark. Code Ann. § 6-41-901 et seq. The purpose of this rule is to provide guidelines under which participants are able to determine eligibility for the program.

KEY POINTS

- Establishes guidelines for compliance with the Succeed Scholarship Program.
- Established guidelines for eligibility for the Succeed Scholarship Program.

DISCUSSION

The underlying legislation that this rule was promulgated under was repealed by Act 237 of 2023 Sections 42 and 52. Accordingly, this rule is no longer necessary.

RECOMMENDATION

The Division of Elementary and Secondary Education recommends Governor's Office approval of this rule repeal.

Notice of Rulemaking

Pursuant to Arkansas Code Annotated § 25-15-201 et seq., notice is hereby given that the Division of Elementary and Secondary Education is considering new administrative rules. Public comment hearings will be held on the DESE Rule Governing Public School Policies Relating to Overnight Trips and Use of Public School Lavatories on May 22, 2024 at 1:30 p.m. Public comment hearings will be held for the following rules on May 31, 2024 at 10:00am: the DESE Rule Governing Professional Development; the DESE Rule Governing Arkansas Governor's School; the DESE Rule Governing Background Checks; the ADE, Office of Early Childhood Rules Governing Better Beginnings, Arkansas's Tiered Quality Rating and Improvement System; the DESE Rule Governing the Code of Ethics for Arkansas Educators; the DESE Rule Governing Dyslexia Screenings and Interventions; the DESE Rule Governing Educator Licensure; the DESE Rule Governing Emergency Response Equipment and Training in Arkansas Public Schools; the DESE Rule Governing Fiscal Assessment and Accountability Program; the DESE Rule Governing the Maternity Leave Cost Sharing Program; the DESE Rule Governing the Requirements and Procedures for Obtaining an Arkansas Birth through Prekindergarten Teaching Credential; and the DESE Rule Governing Water Safety Information Provided by Public Schools. Public comment hearings will be held for the repeal of the following rules on May 31, 2024 at 1:30pm: the DESE Rule Governing the Educator Compensation Reform Program; the DESE Rule Governing Eligibility of Participating School Districts in the Traveling Teacher Program; the DESE Rule Governing Incentives for Teacher Recruitment and Retention in High-Priority Districts; the DESE Rule Governing Reimbursement by School Districts for Election Expenses; the DESE Rule Governing School Board Zones and Rezoning; the DESE Rule Governing School District Duty to Report Student Criminal Acts; the DESE Rule Governing the Succeed Scholarship Program; and DCTE Rule Governing Methods of Administration of Career and Technical Education Programs. All hearings will be held at the Arkansas Department of Education, Arch Ford Building, Four Capitol Mall, Little Rock, AR, 72201. The public comment period for these rules ends on June 10, 2024. Written comments regarding these proposed rules may be mailed to ADE Legal Services, Four Capitol Mall, Room 302A, 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 of Elementary and Secondary Education's

website at: https://dese.ade.arkansas.gov/Offices/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) 683-1390.

Re: Notice of Rulemaking

Legal Ads <legalads@arkansasonline.com>
Wed 5/8/2024 11:42 AM

To:Daniel Shults (ADE) <Daniel.Shults@ade.arkansas.gov>
Cc:LaBria Brown (ADE) <LaBria.Brown@ade.arkansas.gov>;Legal <legal@ade.arkansas.gov>

Caution: This is an external email and may contain a suspicious subject or content. Please take care when clicking links or opening attachments. When in doubt, contact ADE IT Services.

Notice will run Fri 5/10, Sat 5/11, and Sun 5/12.

Sunday will be invoiced separate from Fri/Sat.

Thank you.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Daniel Shults (ADE)" <Daniel.Shults@ade.arkansas.gov>
To: "LaBria Brown, ADE" <LaBria.Brown@ade.arkansas.gov>, "Legal Ads" <legalads@arkansasonline.com>
Cc: "Legal" <legal@ade.arkansas.gov>
Sent: Wednesday, May 8, 2024 11:27:16 AM
Subject: RE: Notice of Rulemaking

ARKANSAS DEPARTMENT OF EDUCATION

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From: LaBria Brown (ADE) <LaBria.Brown@ade.arkansas.gov>
Sent: Wednesday, May 8, 2024 9:57 AM
To: Legal Ads <legalads@arkansasonline.com>
Cc: Legal <legal@ade.arkansas.gov>; Daniel Shults (ADE) <Daniel.Shults@ade.arkansas.gov>
Subject: Notice of Rulemaking

Good morning,

Please find the attached Notice of Rulemaking for several Division of Elementary and Secondary Education administrative rules and confirm receipt. Please run for three consecutive days, from Friday, May 10, 2024, through Sunday, May 12, 2024. Please let me know if you have any questions.