

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



Secretary of State  
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500 Woodlane Street, Suite 026  
Little Rock, Arkansas 72201-1094  
(501) 682-5070  
[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



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Name of Department \_\_\_\_\_

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person \_\_\_\_\_

Contact E-mail \_\_\_\_\_

Contact Phone \_\_\_\_\_

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Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_

**~~ARKANSAS DEPARTMENT OF EDUCATION RULES GOVERNING  
INCENTIVES FOR TEACHER RECRUITMENT AND RETENTION  
IN HIGH PRIORITY DISTRICTS WITH AN  
AVERAGE DAILY MEMBERSHIP OF 1,000 OR FEWER  
March 31, 2012~~**

**~~1.00 Regulatory Authority~~**

~~1.01 These rules shall be known as the Arkansas Department of Education Rules Governing Incentives for Teacher Recruitment and Retention in High Priority Districts.~~

~~1.02 The State Board of Education enacts these Rules pursuant to its authority as set forth in Ark. Code Ann. §§ 6-11-105, 6-17-811, and 25-15-201 et seq.~~

**~~2.00 Purpose~~**

~~The purpose of this rule is to establish the procedures to provide incentives for teacher recruitment and retention in high priority districts.~~

**~~3.00 Definitions~~**

~~Unless otherwise specifically stated herein, the term:~~

~~3.01 Department Means the Arkansas Department of Education.~~

~~3.02 High Priority District Means a public school district identified by the Department by February 15 of each year as having a three-quarter average daily membership in the previous year of one thousand (1,000) or fewer students, and in which eighty percent (80%) or more of public school students are national school lunch students.~~

~~3.02.1 Qualifying teachers in the resulting school district in an approved voluntary consolidation or in a receiving district in an approved voluntary annexation shall continue to receive the funding provided under this section if all school districts in the voluntary consolidation or annexation were high priority districts in the immediately preceding school year, even if the average daily membership of the resulting or receiving school district is one thousand (1,000) or above.~~

~~3.03 — National School Lunch Students — Means, for the sole purpose of these Rules, those students or the percentage of enrolled students from low socioeconomic backgrounds as indicated by eligibility for free or reduced-price meals under the National School Lunch Act as determined on October 1 of each previous school year and submitted to the Department of Education, unless the school district is identified by the Department of Education as participating in the special assistance certification and reimbursement alternative implemented under 42 U.S.C. § 1759a, as interpreted in 7 C.F.R. § 245.9.~~

~~3.03.1 — If the school district is participating under 42 U.S.C. § 1759a, then for purposes of this section, the school district's annual percentage of national school lunch students is equal to the percentage submitted in the base year, which means the last school year for which eligibility determinations were made and meal counts were taken by type.~~

~~3.04 — New Teacher Bonus — Means an incentive bonus provided under Sections 4.01.1 through 4.01.3 of these rules to a teacher who is within the first three (3) years of employment with a single high priority district.~~

~~3.05 — Previous year — Means the school year immediately preceding the current school year.~~

~~3.06 — Retention Bonus — Means an incentive bonus of three thousand dollars (\$3,000) to be paid to a teacher who has received a new teacher bonus and enters his or her fourth or subsequent year of service in the same or other high priority school district or for a teacher employed in a high priority district who does not meet the requirements of Sections 4.01.1 through 4.01.3 of these rules.~~

~~3.07 — Teacher — Means a licensed classroom teacher who spends seventy percent (70%) of his or her time working directly with students in a classroom setting teaching all grade level or subject matter appropriate classes, including guidance counselors and librarians.~~

#### **4.00 — Incentives**

~~4.01 — At the end of the school year and upon completion of a licensed teacher's contracted teaching obligation, a teacher who completes the entire current school year teaching in a high priority district may be entitled to receive, in addition to all other contracted salary and benefits:~~

~~4.01.1 — A newly hired teacher who has not previously taught in a high-priority district, a one time signing bonus of five thousand~~

dollars (\$5,000) for the first year of service in the district to be paid upon completion of the full year of teaching.

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~~4.01.2 — A newly hired teacher who meets the requirements of Section 4.01.1 of these rules, who continues to teach in the same high-priority district and who completes the second full year of contracted teaching obligations, a new teacher bonus of four thousand dollars (\$4,000).~~

~~4.01.3 — A teacher who meets the requirements of Sections 4.01.1 and 4.01.2 of these rules, who continues to teach in the same high-priority district and who completes the third full year of contracted teaching obligations, a new teacher bonus in the amount of four thousand dollars (\$4,000).~~

~~4.01.4 — A teacher who meets the requirements of Sections 4.01.1 through 4.01.3 of these rules, who enters the fourth or subsequent year of service with the same high-priority district or begins employment with a high-priority district other than the high-priority district where he or she was employed when he or she received any bonuses pursuant to Sections 4.01.1 through 4.01.3 above shall receive a retention bonus of three thousand dollars (\$3,000) for the fourth and each subsequent complete year of service in the high-priority district to be paid at the end of the school year after completing all contractual obligations~~

~~4.01.5 — A teacher employed in a high-priority district who does not meet the requirements of Sections 4.01.1 through 4.01.3 of these rules, shall receive a retention bonus of three thousand dollars (\$3,000) for each complete year of service in the high-priority district to be paid at the end of the school year after completing all contractual obligations.~~

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~~4.02 — No teacher is entitled to any incentives outlined in Section 4.01 above unless the teacher has fulfilled all contractual obligations for the current school year.~~

~~4.03 — If the funds appropriated and available for the payment of the bonuses under this section are insufficient to pay the maximum bonus amounts to each qualifying teacher, the Department shall distribute the available funding to qualified teachers on a pro rata basis.~~

~~4.04 — The bonus amounts provided under this section are the maximum amounts to be paid to qualifying teachers in high-priority districts, and are subject~~

~~to the appropriation and availability of funding for the payment of the bonuses.~~

~~4.05 Districts will be responsible for the payment of all matching benefit payments.~~

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~~5.0~~ **Documentation**  
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~~5.01 The Department shall issue by February 15 of each year a list of the high priority districts in which eighty percent (80%) or more of the public school students are eligible for the free or reduced price lunch program under the National School Lunch Act and that had a three-quarter average daily membership in the previous year of one thousand (1,000) or fewer students.~~

~~5.02 The Free and Reduced Price Meal calculation shall be based on the list of eligible students in a district as verified by the Child Nutrition Unit of the Department based on the October 1 list of eligible students for grades K-12 for the previous school year.~~

~~5.03 The determination of eligibility for high priority district designation under Section 5.01 of these Rules for a school district participating under 42 U.S.C. § 1759a shall be made utilizing the number of students eligible for free and reduced price meals submitted by the district for the Department during its base year, which means the last school year for which eligibility determinations were made and meal counts were taken by type.~~

~~5.04 Subject to the provisions of subsection 3.02.01 above, the determination of eligibility for high priority district designation in annexed or consolidated districts is made based on the combination of enrollment, average daily membership and free and reduced price meal calculations for the two or more districts that were annexed or consolidated.~~

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~~5.05 No later than June 1, high priority districts shall notify the Department on forms provided by the Department, and identify all eligible teachers employed at the high priority district for the current school year.~~

~~5.05.1 The district shall list teachers who were not employed by the high priority district during the previous school year and teachers employed the previous school year who continue to be employed for the current school year.~~

~~5.05.2 The Superintendent of the high priority district where the teacher is employed shall certify in writing to the Department~~

~~that the teacher has completed all contractual obligations for the school year as of the date of certification.~~

~~5.05.3 If a teacher fails to complete his or her contractual obligations between the date of certification under Section 5.05 and the following June 15, the Superintendent shall give written notice to the Department no later than June 15.~~

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~~5.06 Upon receipt of the form from each high priority district and the written certification from the Superintendent required by Section 5.05 of these rules, the Department shall distribute the funds to the districts who will distribute the appropriate bonuses to the teachers employed by the high priority districts.~~

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## **6.00 Monitoring of Program**

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~~6.01 It shall be the responsibility of each high priority district to monitor the incentive bonus distribution in their district and provide data to the Arkansas Department of Education.~~

~~6.02 The Arkansas Department of Education's Teacher Recruitment and Retention Unit will collect the data and monitor the total program for the state.~~

**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](mailto: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](mailto:garritym@blr.arkansas.gov), for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

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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.



# Division of Elementary and Secondary Education

*Transforming Arkansas to lead the nation in student-focused education*

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**Jacob Oliva**  
Secretary

February 2, 2024

**Stacy Smith**  
Deputy  
Commissioner

## **Proposed Rule Repeal – Rule Governing Teacher Recruitment**

**State Board of  
Education**

### **PURPOSE**

The Division of Elementary and Secondary Education is seeking the Governor’s review of proposed rule repeal regarding Incentives for Teacher Recruitment and Retention.

**Dr. Sarah Moore**  
*Stuttgart*  
Chair

### **BACKGROUND**

Pursuant to Act 101 of Second Extraordinary Session of 2003, the Division is charged with promulgating rules regarding the Incentives for Teacher Recruitment and Retention, which was codified at Ark. Code Ann. § 6-17-811. The purpose of this rule is to provide guidelines under which eligible teachers are able to receive incentive pay.

**Kathy Rollins**  
*Springdale*  
Vice-Chair

### **KEY POINTS**

- Establishes guidelines for receiving teacher incentive pay.
- Establishes incentive guidelines to determine the amount of incentive.

**Adrienne Woods**  
*Rogers*

**Randy Henderson**  
*Blytheville*

### **DISCUSSION**

The underlying legislation through which this rule was promulgated was repealed by Act 237 of 2023. Accordingly, this rule is no longer necessary.

**Lisa Hunter**  
*White Hall*

### **RECOMMENDATION**

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

**Jeff Wood**  
*Little Rock*

**Ken Bragg**  
*Sheridan*

**Leigh Keener**  
*Little Rock*

## 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](mailto: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

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**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

**Daniel Shults**

Deputy Legal Counsel

Arkansas Department of Education

4 Capitol Mall, Suite 302

Little Rock, Arkansas 72201

Office: (501) 682-4202

Cell: (501) 647-5939

Email: [daniel.shults@ade.arkansas.gov](mailto:daniel.shults@ade.arkansas.gov)

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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.

Thank you,

**LaBria K. Brown, J.D., M.S.**

Paralegal | Office of Legal Services

Arkansas Department of Education

4 Capitol Mall, Suite 302

Little Rock, Arkansas 72201

Office: (501) 683-1390

Email: [LaBria.Brown@ade.arkansas.gov](mailto:LaBria.Brown@ade.arkansas.gov)

