

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
John Thurston
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Little Rock, Arkansas 72201-1094
(501) 682-5070
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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 _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

**ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION RULES
GOVERNING DOCUMENTS POSTED TO SCHOOL DISTRICT AND EDUCATION
SERVICE COOPERATIVE WEBSITES**

Effective Date: May 2, 2022

1.00 REGULATORY AUTHORITY

- 1.01 These Rules are enacted pursuant to the State Board of Education's authority under Ark. Code Ann. §§ 6-10-106, 6-11-105, 6-11-129, 6-13-619, 6-15-208, 6-15-209, 6-15-1402, 6-15-1704, 6-15-2006, 6-15-2101, 6-15-2202, 6-15-2914, 6-17-201, 6-17-1901, 6-17-2301, 6-18-702, 6-18-2005, 6-23-104, 6-41-611, and 25-15-201 et seq.

2.00 PURPOSE

- 2.01 The purpose of these Rules is to apprise school districts, open-enrollment public charter schools, and education service cooperatives of the requirements for publishing documents mandated to be posted to the district's website or the education service cooperative's website.

3.00 ACCESSIBILITY OF REQUIRED INFORMATION ON WEBSITE

- 3.01 All information required to be posted on the website shall be easily accessible through the homepage of the district's website under an easily identifiable direct link titled "State—Required Information" to a page on the district's website where the information may be found.
- 3.02 On the page, the district shall subdivide the information required by these Rules by the categories of information.

4.00 POLICY, DATA, AND INFORMATIONAL DOCUMENTS TO BE ACCESSIBLE ON WEBSITE

- 4.01 By ~~August 1~~ the specified date of each year, the following data and information are required to be posted to the school district's website:
- 4.01.1 The school-level improvement plans, including the literacy plan required by Ark. Code Ann. § 6-15-2914(b) shall be posted by August 1;
- 4.01.2 The written discipline policies shall be posted by September 1;
- 4.01.3 All student handbooks shall be posted by September 1;
- 4.01.4 The school calendar shall be posted by August 1;

- 4.01.4.1 If a school district chooses to implement an alternative calendar based on hours instead of days as authorized under Ark. Code Ann. § 6-10-106, the alternative school calendar;
- 4.01.5 The written bullying policies adopted in accordance with Ark. Code Ann. § 6-18-514, unless the policies are contained in the student handbook;
- 4.01.6 The comprehensive school counseling plan as required by Ark. Code Ann. § 6-18-2005;
- 4.01.7 The plan for parent, family, and community engagement including the scheduling of at least two (2) parent-teacher conferences each year, the parental involvement plan, which is found in AR App., of all public schools in the district, and informational packets required by Ark. Code Ann. § 6-15-1702;
- 4.01.8 The three (3) year teacher and administrator recruitment and retention plan required by Ark. Code Ann. § 6-17-1901, which is found in AR App.; and
- 4.01.9 An open-enrollment charter school shall post the most recent version of its written charter contract.
- 4.01.10 A written policy for the selection, relocation, retention and challenging of materials under Arkansas Code § 6-25-105.
- 4.02 The district must post the annual school performance report for each school year on the website of the district no later than ten (10) days after it is posted on the Division's website.
- 4.03 A public school district receiving Level 2--Collaborative, Level 3--Coordinated, Level 4--Directed, or Level 5-- Intensive support shall post the public school district support plan as required by Ark. Code Ann. § 6-15-2914(d) no later than ten (10) days after submission to the Division.
- 4.04 When a public school district is receiving Level 5--Intensive support, a school is identified as in need of targeted or comprehensive support, or the public school district is in fiscal distress, the district must post a parent-friendly explanation of why and what the district is doing to be removed from the classification.
- 4.05 By December 1, a public school shall post the vaccination and immunization report required by Ark. Code Ann. § 6-18-702(b) that provides information regarding the:

- 4.05.1 Number and percentage of students within the public school who have been granted from the Department of Health an exemption from the requirement to obtain one (1) or more vaccinations as required under Ark. Code Ann. § 6-18-702;
- 4.05.2 Number and percentage of students within the school who have failed to provide the school proof of the vaccinations required under Ark. Code Ann. § 6-18-702; and
- 4.05.3 Number and percentage of students who have not obtained an exemption from the Department of Health.
- 4.06 A district must post all waivers granted under Ark. Code Ann. § 6-15-103 to the district's website within thirty (30) days of the State Board of Education's approval.

5.00 FINANCIAL DOCUMENTS REQUIRED TO BE POSTED TO THE DISTRICT WEBSITE

- 5.01 By ~~August~~ September 1, the district must post the following information:
 - 5.01.1 Written policies for the fiscal operation of the district; and
 - 5.01.2 Current comprehensive financial data reports including:
 - 5.01.2.1 Local and state revenue sources;
 - 5.01.2.2 Administrator and teacher salary and benefit expenditure data;
 - 5.01.2.3 School district balances, including legal balances and building fund balances;
 - 5.01.2.4 The district budget for the current year;
 - 5.01.2.4.1 The budget must also be updated on the website within thirty (30) days following the state reporting Cycle 1 deadline (September 30).
 - 5.01.3 A financial breakdown of monthly expenses of the district;
 - 5.01.4 Salary schedules for all employees, including extended contract and supplementary pay amounts;
 - 5.01.5 All current contract information with all district employees, including, but not limited to, salary, benefits, stipends, supplementary income, leave time, and all other contract terms; and

5.01.5.1 Social security numbers, telephone numbers, personal addresses, and signatures shall not be published.

5.01.5.2 Superintendent performance targets required under Arkansas Code § 6-17-123(b)(1) shall be included with a superintendent's contract.

5.01.6 The annual school district statistical report.

5.02 The information required by this Section must consist of actual data for the two previous school years and the projected budgeted information for the current school year.

6.00 PERSONNEL DOCUMENTS REQUIRED TO BE POSTED TO THE DISTRICT WEBSITE

6.01 Each district is required to post district licensed and classified personnel policies and salary schedules required under Ark. Code Ann. § 6-17-201 et seq. and Ark. Code Ann. § 6-17-2301 et seq.

6.01.1 Each district shall post its reduction in force policy required under Arkansas Code § 6-17-2407.

6.02 By ~~August~~ September 1 of each year, a district must provide the Division with the website where its current personnel policies and salary schedules may be found.

6.02.1 This information is currently collected in state reporting cycles 1-9.

6.02.2 The website address must be entered correctly in each cycle, especially if there are changes to the website address.

6.03 The Division will notify any district that has not posted its personnel policies, or salary schedules, or both, on the district website or provided the Division with the web address in accordance with these Rules.

6.04 A district failing to meet the requirements of this Section by September 15 will not receive in any year any additional state foundation funding from the Public School Fund until the personnel policies and salary schedules are posted to the district's website.

7.00 DYSLEXIA INFORMATION REQUIRED TO BE POSTED TO THE DISTRICT WEBSITE

7.01 The superintendent of a district shall annually report the results of the district screening required under Ark. Code Ann. § 6-41-603.

7.02 Before July 15 of each year, a district shall report on the website of the district, or in writing to the parents of each student in the district, the following information:

7.02.1 The dyslexia intervention programs used during the previous school year that were specifically responsive to assisting students exhibiting characteristics of dyslexia;

7.02.2 The number of students during the previous school year who received dyslexia intervention; and

7.02.3 The total number of students identified with dyslexia during the previous school year.

7.02.3.1 For purposes of Section 7.02.3, “identified with dyslexia” means students exhibiting the characteristics of dyslexia through a school-based or outside evaluation and students with a formal dyslexia diagnosis.

7.03 Any district that fails to comply with this Section shall be in violation of the Standards for Accreditation of Arkansas Public Schools and School Districts and may be placed on probationary status.

8.00 PROBATIONARY STATUS REQUIRED TO BE POSTED TO THE DISTRICT WEBSITE

8.01 When any school of a district, or the district, is determined by the State Board of Education to be in Accredited—Probation or Accredited—Corrective Action status for failure to meet the Standards for Accreditation, that district, after exhausting its rights to appeal, shall:

8.01.1 Immediately after the State Board’s findings, publish the probationary status determination and findings of the State Board on the website of the district in an understandable and uniform format.

8.02 Documentation shall be posted until the State Board removes the status.

9.00 SCHOOL BOARD INFORMATION REQUIRED TO BE POSTED ON THE DISTRICT WEBSITE

9.01 At least ten (10) days before the date of a regular meeting of its Board of Directors, a district shall publish on the district’s website a notice of the date, time, and place of the meeting.

- 9.02 At least twenty-four (24) hours before a rescheduled regular meeting, a district shall publish on the district's website a notice of the change in the date, time, or place of the regular meeting.
- 9.03 The district must post the minutes of regular and special meetings of the school board.

10.00 DOCUMENTS REQUIRED TO BE POSTED ON THE EDUCATION SERVICE COOPERATIVE WEBSITE

- 10.01 Each education service cooperative shall post the final evaluation, including any self-evaluation, required by Ark. Code Ann. § 6-13-1021, on the website of the education service cooperative.

**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.

Ark. Code Ann. § 6-10-128(d)(1)

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

Jacob Oliva
Secretary

February 9, 2024

Stacy Smith
Deputy
Commissioner

Proposed Rules Governing Documents Posted to School District and Education Service Cooperative Websites

**State Board of
Education**

PURPOSE

The Division of Elementary and Secondary Education is seeking the Governor's review of proposed Rules Governing Documents Posted to School District and Education Service Cooperative Websites.

Dr. Sarah Moore
Stuttgart
Chair

BACKGROUND

Pursuant to Act 237 of 2023, the Division is charged with promulgating rules regarding the Documents Posted to School District and Education Service Cooperative Websites Act, which is codified at Ark. Code Ann. § 6-10-128(d)(1). The Division is charged with apprising school districts, open-enrollment public charter schools, and education service cooperatives of the requirements for publishing documents mandated to be posted to the district's website or the education service cooperative's website, for which the Department believes that rulemaking is required.

Kathy Rollins
Springdale
Vice-Chair

Adrienne Woods
Rogers

KEY POINTS

- Requires a written policy for the selection, relocation, retention and challenging of materials under Ark. Code Ann. § 6-25-105.
- Establishes that Superintendent performance targets required shall be included with a Superintendent's contract.
- Requires each district shall post its reduction in force policy as required by the Code.

Randy Henderson
Blytheville

Lisa Hunter
White Hall

Jeff Wood
Little Rock

DISCUSSION

Act 237 of 2023, amended the Documents Posted to School District and Education Service Cooperative Websites Act codified at Ark. Code Ann. § 6-10-128(d)(1). As part of the amendment, the Act requires a written policy for the selection, relocation, retention and challenging of materials under Ark. Code Ann. § 6-25-105.

Act 237 of 2023 establishes that Superintendent performance targets required under Ark. Code Ann. § 6-17-123(b)(1) shall be included with a Superintendent's contract.

Act 237 of 2023 requires that each district shall post its reduction in force policy required under Ark. Code Ann. § 6-17-2407.

Ken Bragg
Sheridan

Leigh Keener
Little Rock

RECOMMENDATION

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

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 the following new administrative rules or amendments to administrative rules: the DESE Rule Governing the Arkansas Educational Support and Accountability Act (AESAA); the DESE Rule Governing the Arkansas Better Chance Program; the DESE Rule Governing Community Service And Diploma Requirements; DESE Rule Governing Career-Ready Pathways To Diploma; the DESE Rule Governing Standards for Accreditation of Arkansas Public Schools and Public School Districts; the DESE Rule Governing Math Intervention; and the DESE Rule Governing Documents Posted to School District and Education Service Cooperative Websites. Public comment hearings will be held for the forgoing rules on June 28, 2024 at 10:00am at the Arkansas Department of Education, Arch Ford Building, Four Capitol Mall, Little Rock, AR, 72201 in the ADE Auditorium. The public comment period for these rules ends on July 14, 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.

FW: Notice of Rulemaking -- Department of Education

Stephen Reynolds (ADE) <Stephen.Reynolds@ade.arkansas.gov>

Wed 6/12/2024 2:33 PM

To: LaBria Brown (ADE) <LaBria.Brown@ade.arkansas.gov>

Cc: Andres Rhodes (ADE) <Andres.Rhodes@ade.arkansas.gov>; Daniel Shults (ADE) <Daniel.Shults@ade.arkansas.gov>

Here's the Dem-Gaz confirmation for rules going out for public comment tomorrow. Would you mind adding it to the packets?

Thanks!

Stephen M. Reynolds
Associate Legal Counsel
Arkansas Department of Education

From: Legal Ads <legalads@arkansasonline.com>

Sent: Wednesday, June 12, 2024 11:00 AM

To: Stephen Reynolds (ADE) <Stephen.Reynolds@ade.arkansas.gov>

Subject: Re: Notice of Rulemaking -- Department of Education

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](#).

Will run Fri 6/14, Sat 6/15, and Sun 6/16.

Thank you.

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

From: "Stephen Reynolds, ADE" <Stephen.Reynolds@ade.arkansas.gov>

To: "legalads" <legalads@arkansasonline.com>

Cc: "Andres Rhodes (ADE)" <Andres.Rhodes@ade.arkansas.gov>, "Daniel Shults, ADE" <Daniel.Shults@ade.arkansas.gov>, "LaBria Brown, ADE" <LaBria.Brown@ade.arkansas.gov>

Sent: Tuesday, June 11, 2024 3:57:25 PM

Subject: Notice of Rulemaking -- Department of Education

Good afternoon,

Please find attached a notice of rulemaking for several Department of Education administrative rules and confirm receipt. Please run for three consecutive days beginning June 14, 2024, through June 16, 2024.

Thanks,

Stephen M. Reynolds
Associate Legal Counsel
Arkansas Department of Education
4 Capitol Mall, Suite 302
Little Rock, Arkansas 72201
Office: (501) 682-4899

Confidentiality Notice: This email may contain confidential information. If you are not the intended recipient, please disregard and delete the email.