ARKANSAS REGISTER

Proposed Rule Cover Sheet

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Name of Department Arkansas 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 Rules Governing the Public School Rating System on Annual School Performance Reports and the School Recognition Program

Newspaper Name Arkansas Democrat-Gazette

Date of Publishing May 11, 2025

Final Date for Public Comment June 10, 2025

Location and Time of Public Meeting Four Capitol Mall, April 18th at 10:00am

Proposed Rulemaking

Title

Promulgated by:
Division of Elementary and Secondary Education

Title 6. Education

Chapter I. Division of Elementary and Secondary Education

Subchapter C. Educational Quality, Standards, and Assessment

Part 64. Rules Governing the Public School Rating System on Annual School Performance Reports and the School Recognition Program

Subpart 1. Generally

6 CAR § 64-101. Purpose.

The purpose of this part is to:

(1) Establish the school rating system and designate school performance category levels or ratings pursuant to Arkansas Code §§ 6-15-2105 and 6-15-2106; and

(2) Provide financial awards to public schools that experience high student performance and those with high student academic growth in accordance with Arkansas Code § 6-15-2107.

6 CAR § 64-102. School rating system.

(a) Each public school will receive a performance category level designation or rating, hereafter collectively referred to as "rating", of "A", "B", "C", "D", or "F" as described in Appendix A.

(b) The Division of Elementary and Secondary Education shall assign the annual public school rating under this section using the following indicators for each designated grade span based on the grade configurations of the school:

(1) In elementary and middle schools, the following indicators shall be used; without limitation:

(A) The percent of students meeting proficiency or exceeding proficiency on state summative exams in ELA, math and science;

(B) The percent of students meeting or exceeding individual growth score in ELA, math, and science; and

(C) The percent of students meeting or exceeding his or her individual growth in the lowest 25% of achievement on the previous state summative exams in ELA, math, and science.

(2) In high schools, the following indicators shall be used; without limitation:

(A) The percent of students meeting or exceeding proficiency on state summative exams in ELA, math and science;

(B) The percent of students meeting or exceeding his or her individual growth score in ELA, math, and science;

(C) The percent of students meeting individual growth in the lowest 25% of achievement on the previous state summative exams in ELA, math, and science combined;

(D) The four year graduation rate; and

(E) The number of students earning a diploma of merit or distinction that lead to enrollment, enlistment, or employment.

(c) For a school that does not have a complete data set due to grade configuration or the number of students per grade, the use of feeder school data, pairing, or proportional cuts, may be used to assign a school rating.

(d) The Division shall publish the annual Public School Rating Business Rules used to assign school ratings on the Division's website.

(e)(1) The Division shall recommend cut scores for each rating to the State Board of Education.

(2) The Division shall implement an “Automatic Grading Scale Increase” in any year in which 65 percent or more of the school statewide aggregate earn a grade of A or B, and raise the scale required to earn a school grade by five percent until the

scale reaches 90-100 = A, 80-89 = B, 70-79 = C, 60-69 = D, and 0-59 = F.

(f)The ~~Department of Education~~ Division ~~will~~ shall engage stakeholder groups in the school rating process and utilize feedback from the stakeholder groups to make a final recommendation to the State Board of Education for the total score range for each rating.

~~(e)~~(g) If a school district has an alternative learning environment (ALE) or an alternative education (AE) program and the ALE or AE has a local education agency (LEA) number, the school district shall, for purposes of a rating pursuant to this part only, include the ALE or AE students in their respective area schools.

(d) (h) Each school's rating shall be included in the annual school performance report, which shall be posted on the ~~department's~~ Division's and school districts' websites.

~~(e)~~(i) ~~For purposes of this part only, t~~The following entities shall be exempt from ~~the designation of~~receiving a school rating:

(1) An open-enrollment public charter school whose mission and enrollment are primarily focused on students who:

(A) Have dropped out of high school; or

(B) Are identified as at risk of dropping out of school;

(2) A conversion public charter school whose mission and enrollment are primarily focused on students who:

(A) Have dropped out of high school; or

(B) Are identified as at risk of dropping out of school;

(3) An adult charter school serving students aged nineteen (19) or older;

(4) The Arkansas School for the Deaf and Blind; and

(5) ~~The Arkansas School for the Deaf; and~~

~~(6)~~ The Division of Youth Services' system of education.

6 CAR § 64-103. Arkansas School Recognition Program.

(a) Pursuant to Arkansas Code § 6-15-2107, public schools that experience high student performance and those with high student academic growth~~, which includes high school graduation rate comparisons for secondary schools,~~ shall be eligible for the Arkansas School Recognition Program.

~~(b)~~(1)(A) For purposes of the Arkansas School Recognition Program, student performance in overall achievement will be calculated using ~~weighted~~ percent of students meeting proficiency in ELA, math and science as describe in the annual Public School Rating Business Rules~~achievement as described in Appendix A~~.

(B) Schools recognized for overall achievement shall have a school-wide value-added score that meets or exceeds expected growth to qualify for the Arkansas School Recognition Program.

(2) Recognition will be determined based on the ranking of ~~all~~ schools by grade span and ~~of~~ the total score for the ~~weighted~~ achievement indicator.

~~(c)(1)~~ (3) Student academic growth shall be determined by using school value-added scores that will be calculated using the state's value-added formula as described in the annual Public School Rating Business Rules.

(4) Recognition for high student academic growth will be determined based on the ranking of the school value-added score of all schools by grade span.

(5) For a school without a complete data set, recognition will be based on the rank of the school value-added score of the school with the tested grade levels that is paired with the feeder school within a district.

~~For purposes of the Arkansas School Recognition Program, student academic growth and school value-added scores will be calculated as described in Appendix A.~~

~~(2) Recognition for high student academic growth, which includes high school graduation rate comparisons for secondary schools, will be determined based on the ranking of all schools using the following criteria:~~

~~(A) For public schools that include at least one (1) of the tested grade levels of grades three through ten (3 – 10) but do not include a terminal grade level of grade twelve (12), recognition will be determined based on the rank of the school~~

~~value-added score;~~

~~(B) For public schools that only include grade levels lower than grades three through ten (3 – 10) (feeder schools), recognition will be determined based on the rank of the school value-added score of the school with tested grade levels that is paired with the feeder school within a district; and~~

~~(C)(i) For public schools that include at least one (1) of the tested grade levels of grades three through ten (3 – 10) and a terminal grade level of grade twelve (12), recognition will be determined based on the rank of the sum of the school value-added score (thirty-five percent (35%) weight) and the adjusted cohort graduation rate score (fifteen percent (15%) weight), multiplied by two (2).~~

~~(ii) For public schools that only include grade levels higher than grades three through ten (3 – 10) that have a terminal grade level of twelve (12), recognition will be determined based on the rank of the sum of the school value-added score (thirty-five percent (35%) weight) of the school paired with it and the adjusted cohort graduation rate score (fifteen percent (15%) weight), multiplied by two (2).~~

~~Appendix A. School Rating System~~

~~Link:~~

~~https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/314/6CARpt.64AppendixA.pdf~~

QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT Arkansas Department of Education
BOARD/COMMISSION State Board of Education
BOARD/COMMISSION DIRECTOR Sec. Jacob Oliva
CONTACT PERSON Daniel Shults
ADDRESS Four Capitol Mall, Little Rock, AR 72201
PHONE NO. 501.682.4202 **EMAIL** daniel.shults@ade.arkansas.gov
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING
Courtney Salas-Ford
PRESENTER EMAIL(S) Courtney Salas-Ford@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.

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1. What is the official title of this rule?
DESE Rules Governing the Public School Rating System on Annual School Performance Reports and the School

2. What is the subject of the proposed rule? Public School Rating

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.

Arkansas Code §§ 6-15-2105 and 6-15-2106

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.

No rules are currently available for repeal.

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).

Arkansas Code §§ 6-15-2105 and 6-15-2106

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 474 of 2025.

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

This amendment to this rule is in compliance with Act 474 of 2025 which requires that the ADE establish an accountability system for public schools.

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: TBD 05/22/2025

Time: Four Capitol Mall, April 18th at 10:00am

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. 07/TBD/2025

15. What is the proposed effective date for this rule? August 1, 2025

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 Department of Education
BOARD/COMMISSION State Board of Education
PERSON COMPLETING THIS STATEMENT Daniel Shults
TELEPHONE NO. 501.682.4202 **EMAIL** daniel.shults@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 Public School Rating System on Annual School Performance Reports

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 0.00

Next Fiscal Year

General Revenue_____
Federal Funds_____
Cash Funds_____
Special Revenue_____
Other (Identify)_____

Total 0.00

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

Current Fiscal Year

General Revenue_____
Federal Funds_____
Cash Funds_____
Special Revenue_____
Other (Identify)_____

Total 0.00

Next Fiscal Year

General Revenue_____
Federal Funds_____
Cash Funds_____
Special Revenue_____
Other (Identify)_____

Total 0.00

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
$ 0.00

Next Fiscal Year
$ 0.00

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
$ 0.00

Next Fiscal Year
$ 0.00

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.

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 Rules Governing the Child Sexual Abuse and Human Trafficking Prevention and Rules Governing the Public School Rating System on Annual School Performance Reports and the School Recognition Program. Public comment hearings will be held for the forgoing rules on May 22, 2025, 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 June 10, 2025. 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.