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Proposed Rule Cover Sheet

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Division of Elementary and Secondary Education

Title 6. Education

Chapter I. Division of Elementary and Secondary Education, Department of Education

Subchapter H. School Districts

Part 234. Rules Governing Student Discipline ~~and School Safety~~

Subpart 1. Generally

6 CAR § 234-101. Title.

This part shall be known as the Division of Elementary and Secondary Education Rules Governing Student Discipline ~~and School Safety~~.

6 CAR § 234-102. Purpose.

This part is designed to assist local school districts and open-enrollment public charter schools with the development, review, and revision of student discipline and school safety policies.

6 CAR § 234-103. Definitions.

As used in this part:

(1) "Attribute" means an actual or perceived personal characteristic including without limitation:

(A) Race;

(B) Color;

(C) Religion;

(D) Ancestry;

(E) National origin;

(F) Socioeconomic status;

(G) Academic status;

(H) Disability;

(I) Gender;

(J) Gender identity;

(K) Physical appearance;

(L) Health condition; or

(M) Sexual orientation;

(2) "Appropriate interim learning environment" means an appropriate learning environment that is used for a period of time not to exceed ten (10) days;

(3) "Appropriate learning environment" means a setting within a public school or public school district that provides a similar structure to the following without limitation:

(A) A classroom; or;

(B) In-school suspension;

(~~2~~4) "Bullying" means the intentional harassment, intimidation, humiliation, ridicule, defamation, or threat or incitement of violence by a student against another student or public school employee by a written, verbal, electronic, or physical act that ~~may~~ :

(A) May address an attribute of the other student, public school employee, or person with whom the other student or public school employee is associated ~~and that causes or creates actual or reasonably foreseeable:~~;

(B) Involves an actual or reasonably perceived power imbalance;

(C) Is repeated or has a high likelihood of repetition; and

(D) Causes or creates actual or reasonably foreseeable:

(~~A~~i) Physical harm to a public school employee or student or damage to the public school employee's or student's property;

(~~B~~ii) Substantial interference with a student's education or with a public school employee's role in education;

(~~C~~iii) A hostile educational environment for one (1) or more student or public school employee due to the severity, persistence, or pervasiveness of the act; or

(~~D~~iv) Substantial disruption of the orderly operation of the school or educational environment; and

(E) Includes cyberbullying;

(~~35~~) "Course time" means the number of hours of instruction devoted to a single subject during the school week;

(~~46~~) "Cyberbullying" means any form of communication by electronic act that is sent with the purpose to:

(A) Harass, intimidate, humiliate, ridicule, defame, or threaten a student, public school employee, or person with whom the other student or public school employee is associated; or

(B) Incite violence to a student, public school employee, or person with whom the other student or public school employee is associated;

(7) "Emergency" means a serious, unexpected, and dangerous situation that requires immediate action, including without limitation:

(A) An active fire;

(B) An active tornado or earthquake;

(C) An active shooter;

(D) An evacuation of school grounds; or

(E) A medical emergency;

(~~58~~) "Electronic act" means without limitation a communication or image transmitted by means of an electronic device, including without limitation:

(A) A telephone;

(B) A wireless phone; or

(C) Other wireless communications device, computer, or pager;

(~~69~~) "Expulsion" means dismissal from school for a period of time that exceeds

ten (10) days;

(~~7~~10) "Harassment" means a pattern of unwelcome verbal or physical conduct relating to another person's constitutionally or statutorily protected status that causes, or reasonably should be expected to cause, substantial interference with the other's performance in the school environment;

(11) "Interscholastic activity" means an activity between schools subject to rules of the Arkansas Activities Association that is outside the regular curriculum of a school district, including without limitation an athletic activity, a fine arts program, or a special interest club or group.

(~~8~~12) "Nontraditional scheduling" means block or other alternative scheduling as defined by the Division of Elementary and Secondary Education;

(~~9~~13) "Personal electronic device" means without limitation a:

(A) Cellular telephone;

(B) Paging device;

(C) Beeper;

(D) Mobile telephone that offers advanced computing and internet accessibility;

(E) Digital media player;

(F) Portable game console;

(G) Tablet, notebook, or laptop computer;

(H) Digital camera; ~~and~~

(I) Digital video or audio recorder;

(J) Smart watch; and

(K) Device that can connect and transmit data through Bluetooth technology; and

(14) "School day" means from the time students are required to be at school until the time students are dismissed from school.

(15) "Special event" means:

(A) Activities held during the school day which occur outside of the standard in-class curriculum or regular school activities where the public is invited; or

(B) One of the following activities:

(i) Pep rallies;

(ii) Interscholastic activity;

(iii) Concerts and performances;

(iv) Art shows and science fairs;

(v) School sponsored events held off campus; and

(vi) Graduation ceremonies.

(~~10~~16) "Substantial disruption" means without limitation that any one (1) or more of the following occur as a result of the bullying:

(A) Necessary cessation of instruction or educational activities;

(B) Inability of students or educational staff to focus on learning or function as an educational unit because of a hostile environment;

(C) Severe or repetitive disciplinary measures are needed in the classroom or during educational activities; or

(D) Exhibition of other behaviors by students or educational staff that substantially interfere with the learning environment;

(~~11~~17) "Suspension" means dismissal from school for a period of time that does not exceed ten (10) days; and

(~~12~~18) "Teacher" or "school administrator" means a:

(A) Person employed by a school district or open-enrollment public charter school and required to hold a valid Arkansas standard teaching license, an ancillary license, a provisional license, a technical permit, or an administrator's license issued by the State Board of Education; and

(B) Nonlicensed classroom teacher or administrator employed in a position under a waiver from licensure as a condition of their employment.

(19) "Violent or abusive behavior" means without limitation:

(A) Using threatening language;

(B) Throwing an item that risks or causes:

(i) Harm to another individual;

(ii) Injury to another individual; or

(iii) Damage to property;

(C) Physically abusing a teacher or another student; or

(D) Any other similar action that presents a physical danger or a threat of physical danger to a teacher or another student.

(i) This section does not apply to:

(a) An educational facility of the Division of Youth Services;

(b) An educational facility that contracts with the division, or

The Arkansas Correctional School District.

6 CAR § 234-104. Student discipline policies.

(a) Each school district or open-enrollment public charter school in this state shall develop written student discipline policies in compliance with this part and shall file the policies with the Division of Elementary and Secondary Education by posting the policies on the school district's or open-enrollment public charter school's website no later than August 1 each year.

(b)(1) Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies.

(2) School districts and open-enrollment public charter schools should attempt to ensure that those involved with the development of school district and open-enrollment public charter school student discipline policies come from diverse racial, gender, and socioeconomic backgrounds and that the group consist of a sufficient number of individuals to provide broad representation within the district or open-enrollment public charter school.

(c) Student discipline policies shall include, without limitation, the following offenses:

(1) Willfully and intentionally assaulting or threatening to assault or abuse any student or teacher, principal, superintendent, or other employee of a school system;

(2) Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school board of directors;

(3) Using, offering for sale, or selling beer, alcoholic beverages, or other illicit

drugs by students on school property; and

(4) Willfully or intentionally damaging, destroying, or stealing school property by students.

(d) Student discipline policies shall:

(1) Prescribe minimum and maximum penalties, including without limitation students' suspension or expulsion from school for violations of any of the offenses listed in subsection (c) of this section and for violations of other practices prohibited by school discipline policies, however, the superintendent shall have discretion to modify the prescribed penalties for a student on a case-by-case basis;

(2)(A) Prescribe expulsion from school for a period of one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law, provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

(B) The policy shall require parents, guardians, or other persons in loco parentis of a student expelled for possession of a firearm or other prohibited weapon to sign a statement acknowledging that the parents have read and understand current laws regarding the possibility of parental responsibility for allowing a child to possess a weapon on school property.

(C) The statement shall be signed by the parents, guardians, or other persons in loco parentis before readmitting a student or enrolling a student in any public school immediately after the expiration of the expulsion.

(D) School administrators, ~~and~~ the local school district board, open-enrollment public charter schools, and open-enrollment public charter school's management organization shall complete the expulsion process of any student that was initiated because the student possessed a firearm or other prohibited weapon on school property regardless of the enrollment status of the student;

(3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school board of directors;

(4) Include prevention, intervention, and conflict resolution provisions;

(5) Set forth the role and authority of public school employees and volunteers;

(6) Include a provision for the seizure by school personnel of hand-held laser pointers in the possession of students;

(7) Establish procedures for responding to reports received through the school safety and crisis line under Arkansas Code § 6-18-111;

(8)(A) Include a provision prohibiting students from wearing while on the grounds of a public school during the regular school day and school-sponsored activities and events, clothing that exposes underwear, buttocks, or the breast of a female, and the disciplinary action or actions that will be taken against a student for violation.

(B) This policy shall not apply to a costume or uniform worn by a student while participating in a school-sponsored activity or event and shall not be enforced in a manner that discriminates against a student on the basis of his or her:

(i) Race;

(ii) Color;

(iii) Religion;

(iv) Sex;

(v) Disability; or

(vi) National origin;

(9) Include programs, measures, or alternative means and methods to continue student engagement and access to education during periods of suspension or expulsion;

(10)(A) Include provisions for placement of a student with disciplinary, socially dysfunctional, or behavioral problems not associated with a physical or mental impairment or disability in an alternative learning environment provided by the district or open-enrollment public charter school.

(B) Behavioral problems include being at risk of not satisfactorily completing a high school education; and

(11)(A) Provide that parents and students will be advised of the rules and regulations by which the school is governed and will be made aware of the behavior

that will call for disciplinary action and the types of corrective actions that may be imposed.

(B) Each school district or open-enrollment public charter school shall develop a procedure for written notification to all parents and students of the district~~'s~~ or open-enrollment public charter school's student discipline policies and for documentation of the receipt of the policies by all parents and students.

(e)(1) A school district or open-enrollment public charter school ~~may~~ shall establish a ~~written student discipline~~ policy and exemptions concerning the possession and use by a student of a personal electronic device during the school day:

(A) On school property; and

~~(B) At an after-school activity; or~~

(~~C~~B) At a school-related function.

(2) Each public school district or open-enrollment public charter school shall submit its policy and exemptions concerning the possession and use by a student of a personal electronic device required under this section to the division for review to determine if the policy complies with Arkansas Code § 6-18-515.

(A) Policy shall be submitted by August 1, 2025, and resubmitted upon modification.

(B) Each public school district or open-enrollment public charter school shall not implement changes to an approved policy until they have resubmitted the new proposed policy to the division and received approval.

(~~2~~f) The policy ~~may~~ shall, without limitation:

(~~A~~1) ~~Allow or restrict~~ Restrict the possession ~~and use~~ of a personal electronic device during the school day;

~~(B) Allow the use of a personal electronic device in school for instructional purposes at the discretion of a teacher or administrator;~~

~~(C) Limit the times or locations in which a personal electronic device may be used to:~~

~~(i) Make telephone calls;~~

~~(ii) Send text messages or emails; or~~

~~(iii) Engage in other forms of communication;~~

~~(D) Allow or prohibit the use of any photographic, audio, or video recording capabilities of a personal electronic device while in school;~~

~~(E~~2) Exempt the possession or use of a personal electronic device by a student who is required to use such a device for health reasons ~~or another compelling reason~~;

~~(F~~3) Exempt the possession or use of a personal electronic device after ~~normal~~ a school ~~hours~~ day for extracurricular activities; ~~and~~

~~(G) Include other relevant provisions deemed appropriate and necessary by the school district.~~

(4) Exempt the possession or use of a personal electronic device during an emergency; and

(5) Exempt the possession or use of a personal electronic device during the school day if the personal electronic device is issued to a student by a public school district or an open-enrollment public charter school for use during the school day.

(g)(1) A policy adopted and implemented under this section may include an exemption of the possession or use of a personal electronic device by a student during a special event that occurs during the school day.

(h) A policy adopted and implemented under this section shall not prohibit a student from using a personal electronic device during the school day if the use of the personal electronic device is:

(1) Included in the student's:

(A) Individualized education program developed under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq. , as it existed on January 1, 2025; or

(B) Plan development under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as it existed on January 1, 2025; or

(2) Required for a student who is enrolled in an endorsed concurrent enrollment course at an institution of higher education in order to utilize two-factor authentication to access course work and resources for the endorsed concurrent

enrollment course.

(i) Each public school district or open-enrollment public charter school shall publish on its website its personal electronic device policy required under this section before the first day of the school year each year.

(j) A public school district or an open-enrollment public charter school that fails to adopt or enforce the personal electronic device policy required under this section, as determined by the division, shall be cited for a violation of the Standards for Accreditation of Arkansas Public Schools and School Districts.

(k) A public school district or an open-enrollment public charter school shall not be liable for a personal electronic device that is confiscated under the public school district's or open-enrollment public charter school's personal electronic device policy required under this section if the personal electronic device is lost, stolen, or damaged.

(~~f~~l)(1) Nothing in any student discipline policies promulgated under state law and this part shall limit or restrict the bringing of criminal charges against any person for violating the criminal laws of this state.

(2) The school principal, or in his or her absence the principal's designee, shall make a reasonable, good faith effort to notify the student's parent or legal guardian or other person having lawful control of the student by court order or person standing in loco parentis listed on the student's enrollment forms, if the school, ~~or~~ school district or open-enrollment public charter school, with respect to a student under the age of eighteen (18):

(A) Makes a report to any law enforcement agency concerning student misconduct;

(B) Grants law enforcement personnel other than a school resource officer acting in the normal course and scope of his or her assigned duties access to a student; or

(C) Knows that a student has been taken into custody by law enforcement personnel during the school day or while under school supervision.

(3) The school principal or the principal's designee shall notify the student's parent, legal guardian, or other person having lawful control of the student under an

order of court or person acting in loco parentis that the student has been reported to, interviewed by, or taken into custody by law enforcement personnel.

(4) If the principal or the principal's designee is unable to reach the parent, he or she shall make a reasonable, good faith effort to get a message to the parent to call either the principal or the principal's designee and leave both a day and an after-hours telephone number.

(5) The notification required by subdivisions (f)(2) and (3) of this section is not required if school personnel make a report or file a complaint based on suspected child maltreatment as required under Arkansas Code § 12-18-401 et seq., or if a law enforcement officer, investigator of the Crimes Against Children Division of the Division of Arkansas State Police or Department of Human Services investigator or personnel member interviews a student during the course of an investigation of suspected child maltreatment.

(~~g~~m)(1) The principal or the principal's designee shall not provide notification under subdivision (f)(1) or (f)(2) of this section if a request is made to interview a student during the course of an investigation of suspected child maltreatment and a parent, guardian, custodian, or person standing in loco parentis is named as an alleged offender.

(2) The investigator shall provide the school with documentation that notification to the parent, guardian, custodian, or person standing in loco parentis is prohibited.

(3) The request to interview under this subsection must be made by:

(A) A law enforcement officer;

(B) An investigator of the Crimes Against Children Division of the Division of Arkansas State Police; or

(C) An investigator or employee of the Department of Human Services.

(~~h~~n)(1) The student discipline policies and state and district or open-enrollment public charter school discipline data shall be reviewed annually by the school district's or open-enrollment public charter school committee on personnel policies.

(2) The committee may recommend changes in the policies to the board of

directors of the local school district or open-enrollment public charter school based on the committee's review.

(~~i~~o) Any amendments or revisions to a school district~~'s~~ or open-enrollment public charter school's student discipline policies shall be developed and adopted in the same manner as the original policies as required by law, consistent with this part, and submitted to the Division of Elementary and Secondary Education within thirty (30) days after the adoption of such amendment or revision.

(~~j~~p)(1) The Division of Elementary and Secondary Education shall monitor compliance with the requirements of this part and of Arkansas Code §§ 6-18-502 and 6-18-503.

(2) Any school district or open-enrollment public charter school failing to file with the Division of Elementary and Secondary Education disciplinary policies that meet the requirements of law and this part shall have all state aid funds withheld until such disciplinary policies are filed with the Division of Elementary and Secondary Education as required by this part.

(~~k~~q) Teachers and administrators, classified school employees, and volunteers shall be provided with:

(1) Appropriate student discipline;

(2) Behavioral intervention; and

(3) Classroom management training and support.

(~~l~~r)(1) Consistent with state and federal law, in order to maintain effective discipline in the classroom, a teacher may remove from class and send to the principal's or principal's designee's office, a student:

(A) Who has been documented by the teacher as repeatedly interfering with the teacher's ability to teach the students in the class or with the ability of the student's classmates to learn; or

(B) Whose behavior the teacher determines is so unruly, disruptive, violent, or abusive that it seriously interferes with the teacher's ability to teach the students in the class or with the ability of the student's classmates to learn.

(2) ~~If~~ Except as provided under subsection (s) of this section, if a teacher

removes a student from class in accordance with subdivision (r~~l~~)(1) of this section, the principal or his or her designee may:

(A) Place the student ~~into another appropriate classroom,~~ into in-school suspension, or into the district~~'s~~ or open-enrollment public charter school's alternative learning environment, so long as such placement is consistent with the public school district~~'s~~ or open-enrollment public charter school written policies and state and federal law and rules;

(B) Return the student to the class; or

(C) Take other appropriate action consistent with the public school district~~'s~~ or open-enrollment public charter school's discipline policy, state law, and federal law.

(3)(A) ~~If~~ Each time a teacher removes a student from class in accordance with subdivision (~~l~~r)(1) of this section ~~two (2) times during any nine-week grading period or its equivalent,~~ the principal or the principal's designee ~~may~~ shall not return the student to the teacher's class ~~unless~~ until a conference is held for the purpose of determining the causes of the problem and possible solutions, with the following individuals present:

(i) The principal or the principal's designee;

(ii) The teacher;

(iii) The school counselor;

(iv) The parents, guardians, or persons standing in loco parentis; and

(v) The student, if appropriate.

(B) However, a teacher is not required to remove a student from class each time the student is unruly or disruptive during the teacher's class.

(~~B~~4) The failure of the parents, guardians, or persons in loco parentis to attend the conference ~~provided for in this subdivision (l)(3)~~ shall not prevent the conference from being held ~~nor~~ or prevent any action from being taken as a result of that conference, provided that the parents, guardians, or persons in loco parentis have been offered the opportunity to participate.

(5) If a student with a disability identified under the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., as it existed on January 1, 2025, or

Section 504 of the Rehabilitation Act of 1973, Publ. L. No. 93-112, as it existed on January 1, 2025, is removed under this subsection (3), then the conference required under subdivision (3)(1) of this section shall serve as a manifestation determination review as required under subsection (t) of this section.

(6) If it is determined during a conference held under this subsection (3) that the student was removed from the teacher's class because of violent behavior, the individuals conducting the conference shall determine if a behavioral threat assessment is necessary for the student.

(s) Except as provided in subsection (t) of this section, a student who is removed from the class under subsection (r) of this section due to violent or abusive behavior against a teacher or another student shall:

(1)(A) Be placed in an appropriate interim learning environment for the duration of the review and conference as required by subsection (d) of this section.

(B) While the student is in an appropriate interim learning environment as required by subsection (s)(1)(A) of this section, the student shall be subject to the relevant written student discipline policies prescribed by his or her public school district or open-enrollment public charter school; and

(2) Not be placed in a class with the teacher or student against whom the violent or abusive behavior was directed if it is determined that the student may leave the appropriate interim learning environment and return to the placement from which he or she was removed.

(t)(1)(A) If the violent or abusive behavior for which a student is removed from class under this section is determined to b e a manifestation of the student's disability following a manifestation determination review of the student's violent or abusive behavior under subdivision (t)(2) of this section, then the student shall be temporarily placed in an appropriate interim learning environment within the public school district or open-enrollment public charter school for no more than ten (10) days while the members of the manifestation determination review team determine the appropriate course of action under this subsection (t).

(B) While the student is in an appropriate interim learning environment as

required by subdivision (t)(1)(A) of this section, the student shall be subject to the relevant written student discipline policies prescribed by his or her public school district or open-enrollment public charter school.

(2) If the public school district, open-enrollment public charter school, teacher against whom the violent or abusive behavior was directed, parents, legal guardians, or persons standing in loco parentis to the student, and relevant members of the student's individualized education program under § 6-41-217 determine that the student requires a change of placement, then the public school district, open-enrollment public charter school, teacher against whom the violent or abusive behavior was directed, parents, legal guardians, or persons standing in loco parentis to the student, and relevant members of the student's individualized education program shall conduct a manifestation determination review, which shall include all relevant information in the student's file, including the student's individualized education program under § 6-41-217, teacher observations, and other relevant information provided by the parent or legal guardian of the student.

(u) If a student is removed from a classroom under this section due to violent or abusive behavior three (3) or more times during one (1) school year, the student shall be:

(1) Placed in an appropriate interim learning environment for the remainder of the school year; or

(2) Disciplined according to the requirements of the written student discipline policy of the public school district or open-enrollment public charter school in which the student is enrolled.

(~~m~~v) If a school employee believes that any action taken by the school district or open-enrollment public charter school to discipline a student referred by that employee does not follow student discipline policies, the school employee may appeal under the district~~'s~~ or open-enrollment public charter school's grievance procedure as provided under Arkansas Code § 6-17-208.

6 CAR § 234-105. Suspension and expulsion.

(a) The board of a school district or an open-enrollment public charter school's management organization may suspend or expel any student from school for violation of the school district's or an open-enrollment public charter school's written discipline policies, with the following exceptions:

(1) A school district or an open-enrollment public charter school shall not use out-of-school suspension as a discipline measure for truancy; and

(2) A school district or open-enrollment public charter school shall not use out-of-school suspension or expulsion for a student in kindergarten through grade five (K-5) except in cases when a student's behavior:

(A) Poses a physical risk to himself or herself or to others; or

(B) Causes a serious disruption that cannot be addressed through other means.

(b)(1) A school district board or open-enrollment public charter school's management organization may authorize a teacher or an administrator to suspend any student for a maximum of ten (10) school days for violation of the school district's or open-enrollment public charter school written discipline policies, subject to appeal to the superintendent or his or her designee.

(2) However, schools that utilize nontraditional scheduling may not suspend students from more course time than would result from a ten-day suspension under the last traditional schedule used by the school district.

(c) If the superintendent initiates the suspension process, the decision may be appealed to the board of directors.

(d)(1) A superintendent may recommend the expulsion of a student for more than ten (10) days for violation of the school district's or open-enrollment public charter school's written discipline policies, subject to appeal to the board of directors and to requirements of the Individuals with Disabilities Education Act, 20 U.S.C. § 1401 et seq.

(2) After hearing all testimony and debate on a suspension, expulsion, or appeal, the board of directors or open-enrollment public charter school's management organization may consider its decision in executive session without the presence of anyone other than the board members.

(3) At the conclusion of an executive session, the board of directors or open-enrollment public charter school's management organization shall reconvene in public session to vote on the suspension, expulsion, or appeal.

(4) A school district board meeting or open-enrollment public charter school's management organization entertaining an appeal shall be conducted in executive session if requested by the parent or guardian of the student provided that after hearing all testimony and debate, the board of directors shall conclude the executive session and reconvene in public session to vote on such appeal.

(e)(1) Upon suspension of a student, the school shall immediately contact the student's parent or legal guardian to notify the parent or legal guardian of the suspension.

(2) Each parent or legal guardian shall provide the school:

(A)(i) A primary call number.

(ii) If the call number changes, the parent or legal guardian shall notify the school of the new primary call number;

(B) An email address if the parent or legal guardian does not have a telephone; or

(C) A current mailing address if the parent or legal guardian does not have a telephone or email address.

(3) The contact required in this subsection is sufficient if made by:

(A) Direct contact with the parent or legal guardian at the primary call number or in person;

(B) Leaving a voice mail at the primary call number;

(C) Sending a text message to the primary call number;

(D) Email if the school is unable to make contact through the primary call number; or

(E) Regular first-class mail if the school is unable to make contact through the primary call number or email.

(4) The school shall keep a notification log of contacts attempted and made to the parent or legal guardian.

(5) A public school or open-enrollment public charter school shall indicate on a student's attendance record if a student's absence is the result of an out-of-school suspension.

~~(f) A public school district or open-enrollment public charter school that expels a student shall offer to the expelled public school student digital learning courses or other alternative educational courses for which the student may receive academic credit that is at least equal to credit the expelled public school student may have received if he or she was still enrolled in his or her assigned public school or open-enrollment public charter school immediately before he or she was expelled.~~

(~~g~~f)(1) The principal of each school shall report within a week to the Division of Elementary and Secondary Education the name, current address, and Social Security number of any student who is expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

(2) The expulsion shall be noted on the student's permanent school record.

(3) Nothing in this subsection shall be construed to limit a superintendent's discretion to modify the expulsion requirement for a student on a case-by-case basis.

(4) The division shall maintain information regarding students who are expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

(~~h~~g) The board of directors of a school district or open-enrollment public charter school's management organization may adopt a policy that any person who has been expelled as a student from any other school district may not enroll as a student until the time of the student's expulsion has expired, provided that the receiving school district board affords the student the opportunity for a hearing at the time the student is seeking enrollment.

6 CAR § 234-106. Corporal punishment.

(a) A school district or open-enrollment public charter school that authorizes the use of corporal punishment in its discipline policy shall include provisions for administration of the punishment, including that it:

(1) Be administered only for cause;

(2) Be reasonable;

(3) Follow warnings that the misbehavior will not be tolerated; and

(4) Be administered by a teacher or a school administrator and only in the presence of a school administrator or his or her designee who shall be a teacher or an administrator employed by the school district.

(b) A school district or open-enrollment public charter school that authorizes use of corporal punishment shall not:

(1) Use corporal punishment on a child who is:

(A) Intellectually disabled;

(B) Nonambulatory;

(C) Nonverbal; or

(D) Autistic; or

(2) Include in its written student discipline policy a provision to allow the use of corporal punishment on a child who is:

(A) Intellectually disabled;

(B) Nonambulatory;

(C) Nonverbal; or

(D) Autistic.

6 CAR § 234-107. Anti-bullying.

(a) Bullying of a public school or open-enrollment public charter school student or ~~a~~ an ~~public school~~ employee is prohibited.

(b)(1) Each public school district board of directors or open-enrollment public charter school's management organization shall adopt policies to prevent bullying.

(2) The policies shall:

(A) Clearly define conduct that constitutes bullying and shall include the definition contained in Arkansas Code § 6-18-514 and this part;

(B) Prohibit bullying while:

(i) In school;

(ii) On school equipment or property;

(iii) In school vehicles;

(iv) On school buses;

(v) At designated school bus stops;

(vi) At school-sponsored activities; or

(vii) At school-sanctioned events;

(C) Prohibit cyberbullying that results in the substantial disruption of the orderly operation of the school or educational environment, whether or not the cyberbullying originated on school property or with school equipment if the cyberbullying is directed specifically at students or school personnel and maliciously intended for the purpose of disrupting school and has a high likelihood of succeeding in that purpose;

(D) State the consequences for engaging in the prohibited conduct, which may vary depending on the age or grade of the student involved;

(E) Require that a school employee who has witnessed or has reliable information that a pupil has been a victim of an incident of bullying as defined by the public school district shall report the incident to the principal as soon as possible;

(F) Require that any person who files a credible report or makes a complaint of bullying shall not be subject to retaliation or reprisal in any form;

(G) Require that notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be conspicuously posted in every classroom, cafeteria, restroom, gymnasium, auditorium, and school bus in the district;

(H) Require that copies of the notice of what constitutes bullying, the prohibition of bullying, and the consequences of engaging in bullying be provided to parents and legal guardians, students, school volunteers, and employees of the public school annually;

(I) Require that a full copy of the policy be made available upon request;

(J) Describe the procedures for reporting an incident of bullying and the steps school employees may take in order to address a report of an alleged incident of

bullying; and

(K) Include information on how to make an anonymous report to the school safety and crisis line under Arkansas Code § 6-18-111.

(c) A notice of the public school district~~'s~~ or open-enrollment public charter school's policies shall appear in any publication of the public school district or open-enrollment public charter school that sets forth the comprehensive rules, procedures, and standards of conduct for public schools within the public school district or open-enrollment public charter school, and the student handbook.

(d) The public school district or open-enrollment public charter school shall, to the extent required, annually conduct a reevaluation, reassessment, and review of its policies regarding the prohibition of bullying and make any necessary revisions and additions.

(e) A public school district or open-enrollment public charter school shall provide training on compliance with the anti-bullying policies to all public school district employees responsible for reporting or investigating bullying.

(f) A public school or open-enrollment public charter school employee who has reported violations under the public school district~~'s~~ or open-enrollment public charter school's policy shall be immune from any tort liability that may arise from the failure to remedy the reported incident of bullying.

(g) The public school district board of directors or open-enrollment public charter school's management organization may provide opportunities for school employees to participate in programs or other activities designed to develop the knowledge and skills to prevent and respond to acts covered by the public school district~~'s~~ or open-enrollment public charter school's policies.

(h) The public school district or open-enrollment public charter school shall provide the Division of Elementary and Secondary Education with the website address at which a copy of the policies adopted in compliance with this part may be found.

(i) Nothing in this part shall be construed to:

(1) Restrict a public school district or open-enrollment public charter school from adopting and implementing policies against bullying and school violence or policies

to promote civility and student dignity that are more inclusive than the policies prohibiting bullying required under this part;

(2) Unconstitutionally restrict protected rights of:

(A) Freedom of speech;

(B) Freedom of religious exercise; or

(C) Freedom of assembly;

(3) Affect the provisions of any collective bargaining agreement or individual contract of employment in effect on July 24, 2019; or

(4) Alter or reduce the rights of a student with a disability with regard to disciplinary action or to general or special educational services and support.

(j) If an alleged incident of bullying occurs during school hours, a public school principal or his or her designee who receives a credible report or complaint of bullying shall as soon as reasonably practicable:

(1) Report to a parent or legal guardian of a student believed to be the victim of an incident of bullying that his or her child is the victim in a credible report or complaint of bullying;

(2) Prepare a written report of the alleged incident of bullying;

(3)(A) Promptly investigate the credible report or complaint.

(B) The investigation shall be completed as soon as possible but not later than five (5) school days from the date of the written report of the alleged incident of bullying.

(C) Following the completion of the investigation into the alleged incident of bullying, an individual licensed as a public school district or open-enrollment public charter school building-level administrator or his or her designee may without limitation:

(i) Provide intervention services;

(ii) Establish training programs to reduce bullying;

(iii) Impose discipline on any of the parties involved in the incident of bullying in accordance with state and federal law and rules and district policy;

(iv) Recommend counseling for any of the parties involved in the incident of bullying; or

(v) Take or recommend other appropriate action;

(4)(A) Notify the parent or legal guardian of the student who is determined to have been the perpetrator of the incident of bullying:

(i) Upon completion of the investigation; and

(ii) Regarding the consequences of continued incidents of bullying.

(B) A parent or legal guardian of a student who is the victim or perpetrator of an incident of bullying is entitled within five (5) school days after the completion of the investigation and in accordance with federal and state law, to receive information about the investigation, including without limitation:

(i) That a credible report or complaint of bullying exists;

(ii) Whether the credible report or complaint of bullying was found to be true based on the investigation;

(iii) Whether action was taken upon the conclusion of the investigation of the alleged incident of bullying; and

(iv) Information regarding the reporting of another incident of bullying;

(5)(A) Make a written record of the investigation and any action taken as a result of the investigation.

(B) The written record of the investigation shall include a detailed description of the alleged incident of bullying, including without limitation a detailed summary of the statements from all material witnesses to the alleged incident of bullying; and

(6) Discuss, as appropriate, the availability of counseling and other intervention services with students involved in the incident of bullying.

(k) One (1) time each school year, the superintendent of a public school district or open-enrollment public charter school shall report to the public school district board of directors or the open-enrollment public charter school's management organization at a public hearing data regarding discipline in the public school district or open-enrollment public charter school, including without limitation the:

(1) Number of incidents of bullying reported; and

(2) Actions taken regarding the reported incidents of bullying.

(l) To prevent multiple, simultaneous investigations into the same alleged conduct, if the facts that support an alleged incident of bullying under this section may also constitute a violation of another state law or rule or federal law or regulation, nothing in this section shall be construed to prevent a public school, public school district, or open-enrollment public charter school from investigating and disposing of the alleged incident of bullying in accordance with the other applicable state law or rule or federal law or regulation in lieu of the requirements of this section.

(m) A public school, public school district, or open-enrollment public charter school shall complete the manner of process or investigation selected by thet public school or public school district under subsection (l) of this section.

(n) This section does not excuse a public school, public school district, or open-enrollment public charter school from complying with applicable obligations under federal law or regulations or state law or rules.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT Department of Education
BOARD/COMMISSION State Board of Education
PERSON COMPLETING THIS STATEMENT Brianne Franks
TELEPHONE NO. 501.683.0960 **EMAIL** brianne.franks@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 Student Discipline

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.

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

June 5, 2025

Proposed Rule Governing Student Discipline and School Safety

Background

Pursuant to Arkansas Codes § 6-18-515, 6-18-511, and 6-18-514, 6-16-1406 et seq. the Division shall adopt necessary rules to implement these code sections. Three important Acts passed in the 2025 legislative session require that this rule be amended to reflect the changes. Those acts are: Act 122 the bell to bell no cell act, Act 565 the teacher and student protection act and Act 805 which updates antibullying policies. In addition, Act 725 if 2023 is now added to reflect changes for expelled students.

Summary of Amendments

- Act 122 of 2025 protects students from the harmful consequences of unlimited cell phone use. This act restricts cell phone use during school hours and limits cell phone use to emergencies during the school day.
- Act 565 of 2025 protects teachers and students from students who become violent or abusive in the classroom. It allows the teacher to remove a violent or abusive student until a conference has been held with parents to address the behavior. This rule provides guidelines for students with disabilities under IDEA and allows schools to suspend or place the student in an alternative learning environment until the conference can be held.
- Act 805 of 2025 amended the definition of bullying and created a process for school to conduct multiple simultaneous investigations into the same allegation of bulling under certain circumstances.
- Act 725 of 2023 removed the requirement that public school districts offer digital learning courses or other alternative educational courses for which a student may receive academic credit to a student who is expelled.

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: Rules Governing Student Discipline, Rules Governing Public School Choice, and Rules Governing Maternity Leave Cost Sharing. Public comment hearings will be held for the forgoing rules on July 18, 2025, at 10:00 am 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 August 11, 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.

From: Legal Ads
To: Brianne Franks (ADE)
Subject: Re: Administrative Rules Notice for Publication
Date: Thursday, July 10, 2025 3:47:46 PM
Attachments: image001.png

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.

Scheduled for Sat 7/12, Sun 7/13, and Mon 7/14. Thanks.

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

From: "Brianne Franks, ADE" <Brianne.Franks@ade.arkansas.gov>
To: "Legal Ads" <legalads@arkansasonline.com>
Cc: "Daniel Shults, ADE" <Daniel.Shults@ade.arkansas.gov>
Sent: Thursday, July 10, 2025 9:59:13 AM
Subject: Administrative Rules Notice for Publication

Good morning,

Please find attached a notice of rulemaking for Department of Education's Student Discipline, Public School Choice, and Maternity Leave Cost Sharing administrative rules and confirm receipt. Please run for three consecutive days beginning on July 12, 2025, through July 14, 2025.

Thank you,

Brianne Franks
Associate Legal Counsel
Arkansas Department of Education
4 Capitol Mall, Suite 302
Little Rock, Arkansas 72201
Office: (501) 683-0960
Email: Brianne.Franks@ade.arkansas.gov