

ARKANSAS REGISTER

Transmittal Sheet

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Secretary of State

Mark Martin

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Division of Elementary and Secondary Education

Department Department of Education

Contact Andres Rhodes E-mail andres.rhodes@ade.arkansas.gov Phone 501-682-4234

Statutory Authority for Promulgating Rules Arkansas Code § 6-61-202

Rule Title: Division of Higher Education Rules Governing Productivity-Based Funding for State-Supported Institutions of Higher Education

Intended Effective Date

(Check One)

Date

☐ Emergency (ACA 25-15-204)

Legal Notice Published

5/3/2024

☒ 10 Days After Filing (ACA 25-15-204)

Final Date for Public Comment

6/6/2024

☐ Other _____
(Must be more than 10 days after filing date.)

Reviewed by Legislative Council

9/20/2024

Adopted by State Agency

7/26/2024

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Stephen M. Reynolds

stephen.reynolds@ade.arkansas.gov

9/24/2024

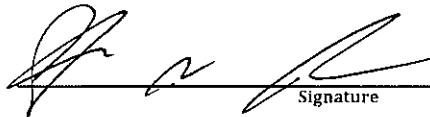
Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)


Signature

501 682 4899
Phone Number

stephen.reynolds@ade.arkansas.gov
E-mail Address

Associate Legal Council
Title

9/24/2024
Date

DIVISION OF HIGHER EDUCATION RULE GOVERNING PRODUCTIVITY-BASED FUNDING FOR STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION

Effective date: October 5, 2024

1.00 PURPOSE

- 1.01 The Higher Education Coordinating Board shall use the productivity-based funding model as the mechanism for recommending to the General Assembly funding for applicable institutions.
- 1.02 The board shall recommend funding for the institutions as a collective and funding to each individual institution.
- 1.03 The board shall make separate recommendations for the two-year institutions and four-year institutions.

2.00 DEFINITIONS

- 2.01 “Institution” means a state-supported:
 - 2.01.1 Two-year institution of higher education; or
 - 2.01.2 Four-year institution of higher education.
- 2.02 “Productivity-based funding” means a mechanism to align institutional funding with statewide priorities for postsecondary education by incentivizing progress toward statewide goals.
- 2.03 “RSA” means the Revenue Stabilization Act.

3.00 FUNDING DISTRIBUTION FRAMEWORK

- 3.01 A productivity index for each institution will be calculated based on the Productivity Funding Model Policies for Universities and Colleges.
 - 3.01.1 Each institution’s current productivity index will be compared to its previous year’s index to determine productivity changes.
 - 3.01.2 One productivity index will be calculated to represent productivity changes for institutions as a collective and will be used to determine how much new state funding is recommended.
 - 3.01.3 The Higher Education Coordinating Board will limit the funding recommendation generated by the productivity-based funding model to no more than a 2% growth over the prior year’s RSA general revenue funding amount for institutions.

- 3.02 When new state funding is recommended, the proportion of new monies to be distributed among institutions will be divided into two separate funding pools for four and two-year institutions based upon the percentage of existing RSA general revenue.
- 3.02.1 If any RSA general revenue funds remain unallocated to institutions due to productivity declines, the Division of Higher Education shall utilize the funds to address statewide needs in higher education.
- 3.02.2 New RSA general revenue allocated to institutions will be distributed among the institutions with productivity index increases.
- 3.02.3 The percentage of new RSA general revenue funding recommended for institutions with productivity index increases will be calculated as a percentage of the contribution to the overall institutions' productivity index increases.
- 3.03 Within each four and two-year institution group, RSA general revenue funding will be recommended for reallocation from institutions with productivity index declines to institutions with productivity index increases.
- 3.03.1 Reallocation of RSA general revenue funding to institutions with productivity increases will be calculated as a percentage of the contribution to the overall four or two-year institution productivity index increases.
- 3.03.2 Reallocation for institutions with productivity index declines will be based on their percentage of productivity index decline.
- 3.03.3 Recommended reallocation will be introduced on a graduated scale starting with 1% of an institution's RSA general revenue funding being reallocated in 2019-2020; up to 1.5% in 2020-2021; and up to 2% in 2021-2022 and thereafter.
- 3.04 The total RSA general revenue recommendation for each institution will include any new state funding recommendation and reallocated funding recommendation.
- 3.04.1 If an institution's funding recommendation is greater than a 1% increase in 2018-2019; 1.5% increase in 2019-20; or 2% increase thereafter over its existing RSA general revenue funding, the board will recommend that the amount of funding recommendation up to 2% based on the graduated scale would be added to an institutions existing RSA general revenue and any funding recommendation in excess would be one-time incentive funding for that institution.

- 3.04.2 The board will recommend redistribution of one-time incentive funding in the following year based on productivity index changes.
- 3.05 In the event that an institution of higher education's RSA general revenue funding declines by more than 5% within any consecutive five-year period due to productivity declines, the division shall not further recommend reductions in funding for that institution.
- 3.06 In any fiscal year for which the aggregate general revenue funding forecast to be available for state-supported institutions of higher education is greater than 2% less than the amount provided for the immediate fiscal year, the division shall not further implement the productivity-based funding model until the following fiscal year.
- 3.07 This rule will be reviewed every three (3) years to ensure that productivity funding distribution continues to respond to the needs and priorities of the state.
- 3.08 However, if the division determines that the funding distribution framework created unintended consequences, this rule will be reviewed immediately.

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.