

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Division of Career and Technical Education

Department Arkansas Department of Education

Contact Andres Rhodes E-mail andres.rhodes@ade.arkansas.gov Phone 5016824234

Statutory Authority for Promulgating Rules Arkansas Code 6-11-105

Rule Title: DCTE Rule Governing the Adult Diploma Program

Intended Effective Date

(Check One)

☒ Emergency (ACA 25-15-204)

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

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

Legal Notice Published ..... NA

Final Date for Public Comment ..... NA

Reviewed by Legislative Council ..... 04/23/24

Adopted by State Agency ..... 04/11/24

Date

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

LaBria Brown

labria.brown@ade.arkansas.gov

04/29/24

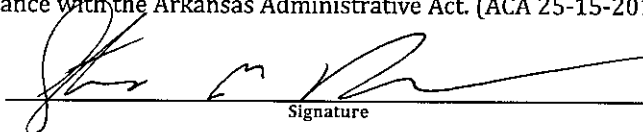
Contact Person

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

5016824899

stephen.reynolds@ade.arkansas.gov

Phone Number

E-mail Address

Attorney Specialist

Title

04/29/24

Date

# **DIVISION OF CAREER AND TECHNICAL EDUCATION RULES GOVERNING THE ARKANSAS ADULT DIPLOMA PROGRAM**

Effective Date: April 23, 2024

## **1.00 AUTHORITY**

- 1.01 The State Board of Education enacted these rules pursuant to its authority as set forth in Ark. Code Ann. §§ 6-11-105, 6-44-303, and 25-15-201 et seq.

## **2.00 DEFINITIONS**

- 2.01 “Academic skill intake assessment” means a criterion-referenced assessment of numeracy and literacy skills with high reliability and validity as determined by third-party research that is administered in person or online.
- 2.02 “Accredited” means an entity that holds an active accreditation from:
- 2.02.1 One (1) of the following regional accrediting organizations in the United States:
- 2.02.1.1 Middle States Commission on Higher Education;
  - 2.02.1.2 New England Association of Schools and Colleges;
  - 2.02.1.3 Higher Learning Commission;
  - 2.02.1.4 Northwest Commission on Colleges and Universities;
  - 2.02.1.5 Southern Association of Colleges and Schools Commission on Colleges;
  - 2.02.1.6 Accrediting Commission for Schools, Western Association of Schools and Colleges;
  - 2.02.1.7 Accrediting Commission for Community and Junior Colleges;  
or
  - 2.02.1.8 Any successor entities or consolidation or merger of any of the regional accreditors in the United States; or
- 2.02.2 Cognition.
- 2.03 “Adult dropout recovery services” means any type of assistance provided to a student, including without limitation:
- 2.03.1 Sourcing, recruitment, and engagement;

- 2.03.2 Learning plan development;
- 2.03.3 Active teaching; and
- 2.03.4 Proactive coaching and mentoring.
- 2.04 “Approved program provider” means a public, nonprofit, or other entity that satisfies the requirements of section 3.02.
- 2.05 “Average cost per graduate” means the total amount of Arkansas Adult Diploma Program funding disbursed to an approved program provider for a cohort through the end of the measurement period divided by the total number of graduates from the cohort during the measurement period.
- 2.06 “Career advising services” means services designed to assist a student in obtaining employment, including without limitation resume development and mock interviews.
- 2.07 “Career pathways coursework” means one (1) or more courses that help a student enter into or advance within a specific occupation or occupational cluster.
- 2.08 “Coaching” means proactive communication between an approved program provider and a student related to the student's pace and progress throughout his or her learning plan.
- 2.09 “Cohort” means the group of students who enter the program between July 1 and June 30 of each program year.
- 2.10 “Employability skills certification” means a certificate earned by students demonstrating professional nontechnical skills through assessment, including without limitation the program standards of the United States Department of Labor's “Skills to Pay the Bills: Mastering Soft Skills for Workplace Success”.
- 2.11 “Graduate” means a student who has successfully completed all of the approved program provider requirements in order to obtain a high school diploma.
- 2.12 “Graduation rate” means the total number of graduates from a cohort who graduated during a measurement period divided by the total number of students included in the same cohort.
- 2.13 “Graduation requirements” means Arkansas course and credit requirements needed to earn a high school diploma from an approved program provider.
- 2.14 “High school diploma” means a diploma issued by an accredited institution.

- 2.14.1 A high school diploma issued under this subchapter is recognized as a secondary school diploma by this state.
- 2.15 “Learning plan” means a documented plan for courses or credits needed for each individual in order to complete the program and to fulfill the graduation requirements of an approved program provider.
- 2.16 “Measurement period” means the two-year period beginning July 1 of the year the cohort begins through June 30 of the subsequent state fiscal year.
- 2.17 “Mentoring” means a direct relationship between a coach and a student to facilitate the completion of the student’s learning plan designed to prepare the student to succeed in the program and the student’s future endeavors.
- 2.18 “Milestones” means the objective measures of progress for which payment is made to an approved program provider under this subchapter, including:
- 2.18.1 Earned units of high school credit;
- 2.18.2 Attainment of an employability skills certification;
- 2.18.3 Attainment of a workforce credential; and
- 2.18.4 Attainment of an accredited high school diploma.
- 2.19 “Request for qualifications” means a request for interested public, nonprofit, or other entities to submit evidence that the entity meets the qualifications in section 3.02, and if confirmed by the Department of Education, that the requestor is an approved program provider.
- 2.20 “Student” means a participant in the program who:
- 2.02.1 Is twenty-one (21) years of age or older;
- 2.02.2 Is a resident of the state of Arkansas; and
- 2.02.3 Has not earned a high school diploma.
- 2.21 “Transcript evaluation” means a documented summary of credits earned in previous public or private accredited high schools compared with the program and approved program provider graduation requirements.
- 2.22 “Unit of high school credit” means credit awarded based on a student’s demonstration that he or she has successfully met the content expectation for the credit area as defined by subject area standards, expectations, or guidelines.

- 2.23 “Workforce credential” means a third-party credential that is:
  - 2.23.1 Part of a sequence of credentials that can be accumulated over time to build an individual's qualifications to advance along a career pathway; or
  - 2.23.2 A credential that:
    - 2.23.2.1 Verifies an individual's qualification or competence; and
    - 2.23.2.2 Is:
      - 2.23.2.2.a Issued by a third party with the relevant authority to issue the credential; or
      - 2.23.2.2.b Aligned with high-wage, high-growth jobs in Arkansas, as defined by the Arkansas Workforce Development Board.

### **3.00 APPROVED PROGRAM PROVIDERS**

- 3.01 Annually by August 15, the Department of Education shall issue a request for qualifications for public, nonprofit, or other entities to apply to become approved program providers and participate in the Arkansas Adult Diploma Program.
- 3.02 To become an approved program provider, the entity must:
  - 3.02.1 Be a regionally accredited high school diploma-granting entity;
  - 3.02.2 Have a minimum of two (2) years of experience providing adult dropout recovery services;
  - 3.02.3 Provide a course catalog that includes all courses necessary to meet Arkansas graduation requirements; and
  - 3.02.4 Have the ability to:
    - 3.02.4.1 Provide academic skill intake assessments and transcript evaluations;
    - 3.02.4.2 Develop a learning plan for each student that integrates graduation requirements and career goals;
    - 3.02.4.3 Provide remediation opportunities in literacy and numeracy;
    - 3.02.4.4 Provide an employability skills certification;

3.02.4.5 Provide career pathways coursework;

3.02.4.6 Provide preparation for workforce credentials; and

3.02.4.7 Provide career advising services.

3.03 The department shall announce the approved program providers no later than October 15 annually.

3.03.1 Upon the announcement of approval, an approved program provider may begin enrolling students starting no later than November 15 each year.

3.03.2 Approved program providers shall submit to the department a roster for the previous two years of enrolled students who received services.

#### **4.00 FUNDING AND PAYMENTS**

4.01 An approved program provider may receive reimbursement for an enrolled, eligible student who meets the milestones as defined in 2.18, according to the chart listed in Appendix A.

4.02 An approved program provider shall not receive funding for a student under this rule if the approved program provider also receives federal or state funding or private tuition specifically for the student.

4.03 Once a program provider enrolls a student into its program, it shall provide the Department of Education an anticipated cost of completion of the program for that student.

4.03.1 The program provider shall provide the department an updated anticipated cost of completing the program after each year the student completes.

4.03.2 The department will reserve funds for that student while the student is enrolled in a program with an approved program provider.

4.04 An approved program provider shall submit request for reimbursement invoices to the department no later than the tenth (10<sup>th</sup>) calendar day of each month for milestones met in the previous calendar month under the Arkansas Adult Diploma Program.

4.04.1 An approved program provider shall include with its reimbursement request a roster of students who received services in the previous calendar month for which reimbursement was requested.

4.05 The department shall pay approved program providers in the order in which invoices are submitted until all available funds are exhausted.

- 4.05.1 Once all available funds are exhausted, the department shall notify all approved program providers that funds are exhausted and approved program providers shall immediately stop enrolling new students.
- 4.05.2 Once all available funds are exhausted, an approved program provider can no longer request reimbursement for enrolled students.
- 4.05.3 For purposes of this rule, “exhausted funds” includes funds that have been expended and funds reserved that are necessary for the anticipated cost of completion of the program per student.
- 4.06 The department shall provide a written update to an approved program provider by the last calendar day of each month, including without limitation the:
- 4.07 Aggregate total dollars per student that have been paid to the approved program provider to date; and
- 4.08 Estimated number of enrollments still available for the program year.

## **5.00 ACCOUNTABILITY**

- 5.01 After the close of the second fiscal year of the Arkansas Adult Diploma Program and each year thereafter, the Department of Education shall review data from each approved program provider to ensure that each approved program provider is achieving minimum performance standards under the program, including:
  - 5.01.1 Minimum of fifty percent (50%) graduation rate for each cohort's measurement period; and
  - 5.01.2 Average cost per graduate of seven thousand dollars (\$7,000) or less for each cohort's measurement period.
- 5.02 The department shall place an approved program provider that does not meet the minimum program performance standards in sections 3.02 and 5.01 on probationary status for the remainder of the fiscal year.
  - 5.02.1 An approved program provider placed in probationary status under section 5.02 will be required to submit an improvement plan to the department.
- 5.03 An approved program provider that does not meet the minimum performance standards and fails to improve performance under its improvement plan for two (2) consecutive years shall be removed from the approved program provider list.

## **6.00 REPORTING REQUIREMENTS**

- 6.01 On or before August 15 of the second fiscal year of the Arkansas Adult Diploma Program and each year thereafter, each approved program provider participating in the program shall report the following metrics to the Department of Education and to the Department of Commerce, Office of Skills Development:
- 6.01.1 Total number of students for whom the approved program provider has received payments under the program;
  - 6.01.2 Total number of high school credits earned by students for whom the approved program provider is receiving payments under the program;
  - 6.01.3 Total number of employability skills certifications issued to students for whom the approved program provider is receiving payments under the program;
  - 6.01.4 Total number of workforce credentials earned, and the number and type of credential earned by each student, for each type of funding under section 4.01 by students for whom the approved program provider is receiving payments under the program;
  - 6.01.5 Total number of students for whom the approved program provider is receiving payments under the program who receive high school diplomas;
  - 6.01.6 Average cost per graduate for the cohort for which the measurement period ended in the prior fiscal year of the state and an updated average cost per graduate for any previous cohort for which the measurement period has ended but a student from the cohort achieved one (1) of the milestones described in section 5.01 in the prior fiscal year of the state; and
  - 6.01.7 Graduation rates for the cohort for which the measurement period ended in the prior fiscal year of the state and updated graduation rates from any previous cohort for which the measurement period has ended but a student from the cohort achieved one (1) of the milestones described in section 5.01.
- 6.02 On or before August 15 after the conclusion of the first measurement period of the program and each year thereafter in which payments under the program were dispersed for the prior fiscal year of this state, each approved program provider that received payments under section 4.00 for the preceding fiscal year shall report the metrics in this section by cohort to the department.



Emergency Clause:

Whereas Act 546 of 2023 requires the State of Arkansas through the Department of Education to administer the Adult Diploma Program through rules promulgated by the State Board of Education; and

Whereas, the Arkansas Adult Diploma Act requires that a rule be filed with the Arkansas Legislative Council by January of 2024;

Whereas, the Department has attempted to comply with statutory deadlines, but has been finalizing rule language based on requirements established during the development of the request for qualifications required by the Act; and

Whereas, emergency promulgation of the Rules Governing the Adult Diploma Program is required to comply with statutory deadlines.

THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that immediate peril to the welfare of the State will result without emergency promulgation of these Rules.

## Appendix A

A student who attains an industry-recognized credential requiring between fifty and one hundred (50–100) hours of training.	\$125.00
A student who completes an employability skills certification program equal to at least one unit of high school credit obtained through classroom or online instruction.	\$250.00
A student who earns a unit of high school credit.	\$250.00
A student who attains an industry-recognized credential requiring more than one hundred (100) hours of training.	\$375.00
A student who attains a high school diploma.	\$1000.00
A student who graduates and is placed in a job within an in-demand career pathway.	\$1,250.00

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH  
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT \_\_\_\_\_  
BOARD/COMMISSION \_\_\_\_\_  
BOARD/COMMISSION DIRECTOR \_\_\_\_\_  
CONTACT PERSON \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
PHONE NO. \_\_\_\_\_ EMAIL \_\_\_\_\_  
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING \_\_\_\_\_  
PRESENTER EMAIL(S) \_\_\_\_\_

**INSTRUCTIONS**

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, [miller-ricer@blr.arkansas.gov](mailto:miller-ricer@blr.arkansas.gov), for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, [garritym@blr.arkansas.gov](mailto:garritym@blr.arkansas.gov), for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

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1. What is the official title of this rule?  
\_\_\_\_\_
2. What is the subject of the proposed rule? \_\_\_\_\_
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes      No

*If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).*

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes      No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? \_\_\_\_\_

On what date does the emergency rule expire? \_\_\_\_\_

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?  
Yes      No

If yes, please provide the year of the act(s) and act number(s).

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

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes      No

If yes, please complete the following:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Place: \_\_\_\_\_

*Please be sure to advise Bureau Staff if this information changes for any reason.*

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. \_\_\_\_\_

15. What is the proposed effective date for this rule? \_\_\_\_\_

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes      No

If yes, please explain.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY.**

**DEPARTMENT** \_\_\_\_\_  
**BOARD/COMMISSION** \_\_\_\_\_  
**PERSON COMPLETING THIS STATEMENT** \_\_\_\_\_  
**TELEPHONE NO.** \_\_\_\_\_ **EMAIL** \_\_\_\_\_

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

**TITLE OF THIS RULE** \_\_\_\_\_

1. Does this proposed, amended, or repealed rule have a financial impact?  
Yes                      No
  
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes                      No
  
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes                      No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:  
(a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

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

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

**Current Fiscal Year**

\$ \_\_\_\_\_

**Next Fiscal Year**

\$ \_\_\_\_\_

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ \_\_\_\_\_

**Next Fiscal Year**

\$ \_\_\_\_\_



7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes      No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.