

# ARKANSAS REGISTER

## Transmittal Sheet

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



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For Office

Use Only:

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Name of Agency State Board of Election Commissioners

Department \_\_\_\_\_

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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.)

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**RULES  
FOR THE  
ANNUAL SCHOOL ELECTION IN  
EVEN NUMBERED YEARS  
(Effective July 2, 2018)**



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## **Scope of Rules**

These rules will set forth the procedures for calculation, allocation, and billing of the cost of an Annual School Election which is held on an even-numbered year. These rules will also establish procedures for conducting the Annual School Election across multiple counties. These rules are in addition to, and not a substitute for, the laws of the State of Arkansas.

## **§ 1200 Definitions**

- (a) Actual Election Expense – the total amount of liabilities or expenditures incurred by a county for a particular election expense in a given election.
- (b) Additional Cost – a cost which is incurred by the county when holding a school election, or its runoff, in conjunction with a preferential primary election, a general primary election, a general election, or a general election runoff and which would not have been incurred had the school election not been held on that date.
- (c) Allocated Previous Cost – the portion of the Total Previous Cost which is assigned to each county based on the percentage of the school district’s qualified electors living in each county.
- (d) Annual School Election – the election held once in a calendar year by which the residents in a given school district cast votes to determine which candidates may fill any vacant seat on that district’s Board of Directors and, unless otherwise provided for in law, vote to approve or disapprove the rate of tax proposed by the Board of Directors.
- (e) County Board – refers to the County Board of Election Commissioners.
- (f) Election Expense – any expenditure lawfully used by the county board of election commissioners, the county clerk, or any other authorized person, to prepare for, conduct, or determine the results an election.
- (g) Reimbursable Additional Cost – the total cost for which the school district is required to reimburse the county board for the additional cost of a school election that does not exceed the previous cost of the most recent comparable election as defined by these rules.
- (h) State-funded elections – preferential primary elections, general primary elections, special primary elections, nonpartisan general elections, statewide special elections and runoffs for statewide special elections.

- (i) Total Previous Cost – these are the cost of the most recent comparable election that was held in an odd-numbered year and that is the cost which the reimbursable additional cost of the election cannot exceed pursuant to Ark. Code Ann. §6-14-118(b)(2).

### **§ 1201 Regarding the Reimbursement of State-funded Elections which are Held in Conjunction with the Annual School Election**

The additional costs incurred by a county for an annual school election that is held in conjunction with a state funded election are not reimbursable by the State Board of Election Commissioners.<sup>1</sup>

Any request for reimbursement filed pursuant to the SBEC *Rules for Reimbursement of Expenses for State-Funded Elections* which requests that the additional cost of a school election be included in that reimbursement or fails to document the calculation required by §1206 of this rule may result in the withholding of state funding pursuant to this SBEC Rule § 502. A county submitting a request for reimbursement must calculate the additional cost of the school election as defined under this rule. The requesting county must document those calculations in a manner sufficient for the State Board to distinguish the additional cost of the school election and the reimbursable costs of the state funded election.

### **§ 1202 School District's Obligation to Reimburse the County for School Election Expenses When the School Election is Held in Conjunction with Another Election**

When an annual school election is held in an even-numbered year, the school district must reimburse the additional election costs created by holding the school election at the same time as the preferential primary or general election to the county or counties which incurred these costs.<sup>2</sup>

However, the amount that is reimbursable to the county or counties shall not exceed an amount equal to the amount the school district reimbursed the county in which the district is domiciled for the last contested school election in an odd-numbered year.<sup>3</sup>

If the total amount of reimbursements requested from all counties under these rules exceeds the total previous cost of the school election, the total amount of reimbursements for the additional cost of the election shall be pro-rated between each county in which an issue or candidate for that district appeared pursuant to rule §1207.

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<sup>1</sup> Ark. Code Ann. § 7-4-101(f)(11).

<sup>2</sup> Ark. Code Ann. § 6-14-118 (b)(1) as amended by Act 910 of 2016.

<sup>3</sup> Ark. Code Ann. § 6-14-118 (b)(2) as amended by Act 910 of 2016.

### **§ 1203 Procedures for Billing of Additional Election Expenses to the School District**

The county board of election commissioners shall prepare an expense report which documents the total of all additional election expenses incurred by that county for each school district in the county that held an election. This report shall itemize each election expense for which the county experienced an additional cost in that election. The county board shall then forward that report to the school district with a request for reimbursement.

This request shall be submitted within 150 days of the date of the election.

### **§1204 Procedures for the School District's Calculation and Payment of Reimbursements**

The district shall, pursuant to §1207, calculate the previous cost of the most recent comparable odd-year school election for each county in which the district had an issue or candidate on the ballot.

Once the district has received a request for reimbursement from each county board required to submit a request, the district shall pay each county the lesser of the additional election costs requested by the county or the allocated previous costs of the most recent comparable election held on an odd year for that county.

In the event that the payment of the lesser of the additional election cost requested by the county or the allocated previous costs to each county does not cause the district's total reimbursement to exceed the total previous costs, the remaining amount shall be pro-rated proportionally between those counties whose reimbursement was limited by the allocated previous costs until the district's reimbursement to all counties, in the aggregate, equals the total previous costs.

Should the district fail to receive a request for reimbursement from one or more counties within 150 days of the election, the district shall follow the procedures set forth in this rule in calculating the payment for each county that has submitted a request at the time the calculations are made.

The district must reimburse each county which has submitted timely requests for reimbursement no later than 210 days following the date of the election. The district shall only reimburse a county board which files a request after the initial calculations and payment are made if the total reimbursements paid by the district have not yet exceeded the total previous costs.

If, pursuant to this rule, the district is not required to pay the entire amount of additional cost requested by the county board, the district shall document the amount of additional cost each county submitted to the district, the election designated as the most recent comparable odd year election, the amount the district paid to the domicile county in the comparable odd year election, the number of the district's qualified electors living in each county, and all calculations made using

this information. A copy of this documentation shall be submitted to each county at the time the district submits its reimbursement to the county.

### **§ 1205 Calculation of Additional Costs of the School Election**

An additional cost of the election, within the meaning of §1203, is calculated as follows: The county board shall calculate the difference of the actual funds expended or liabilities incurred on any election expense with the amount that would have been required had the annual school election not been held in conjunction with the preferential primary or general election.

Once the county board calculates this difference for each election expense for which there is a difference, the county board shall add the additional cost for each election expenditure together to calculate the total additional cost of the annual school election.

However, notwithstanding any other provision of this rule, a county board and a school district may agree that the additional costs of the school election will exceed the reimbursable additional costs. If such an agreement is reached, the school district may reimburse the county the total reimbursable additional cost as calculated under § 1207 without calculating the additional costs. NOTE: a county must still calculate the additional cost of a school election under these rules in order to receive reimbursement from the SBEC in a state funded election.

### **§ 1206 Further Explanation of Additional Cost Regarding Specific Election Expenses**

When calculating the additional costs of the school election, the county board shall make its calculation regarding a specific election expense consistent with the procedures described in this rule. However, the following categories are not exclusive and all election expenses are governed by § 1205. If more than one district is holding an annual school election within a county on the same election date, the calculations described below shall be performed separately for each district.

- a. Programming Cost – Ballot Faces: When calculating the additional programming cost of formatting ballot styles, the county board shall determine number of additional ballot styles that are required due to the inclusion of issues or races that are to be determined in the annual school election. The county board shall then multiply that number by the formatting cost for a single ballot style.
- b. Programming Cost – Candidates/Issues: When calculating the additional programming cost of formatting each candidate or issue on the ballot, the county board shall determine number of additional candidates and issues that are required due to the inclusion of issues or races that are to be determined in the annual school election. The county board shall then multiply that number by the cost of adding a single issue or candidate. These same

calculations shall be applied to the cost of formatting the candidates and issues on the audio ballots.

- c. Election Officials: When calculating the additional cost of election officials, the county board should only include, as additional costs, the payment made to election officials appointed during an election solely because of the inclusion of the annual school election.
- d. Election Commissioner Meetings: The county board may include, as an additional cost of the school election, one meeting of county board of election commissioners to perform the calculation required by this rule. Additional meetings of the county board may only be included if that meeting was called solely to address issues generated by the inclusion of the school election. However, the county board shall not hold separate meetings to address school election issues solely for the purposes of generating reimbursement under this rule.
- e. Supply Cost: When calculating the additional costs of election supplies, the county board may include, as additional costs, any additional supplies which are purchased only because of the inclusion of the school election. Examples of such costs include, but are not limited to; the cost of extra RTAL rolls due to increased ballot lengths, extra thermal paper, ext.
- f. Advertising/Publication Cost: A portion of the cost of publishing legally required notices can be recovered as an additional cost if the county board is able to determine what portion of the costs are attributed directly to the school election. If the notice is included in a portion of the publication that is billed using a rate for each word or line of the notice, then the additional cost of the notice are those words or lines used associated with the annual school election.<sup>4</sup>
- g. Paper Ballots: The additional cost for any paper ballot produced solely due to the inclusion of the annual school election for use on election day, absentee ballot, or provisional ballots shall be an additional cost of the school election.

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<sup>4</sup> School Elections have different publication requirements than preferential primary elections. See A.C.A. §6-14-109; A.C.A. §6-14-106(d).



## **§ 1207 Calculation of the Previous Costs of the most Recent Comparable School Election**

The following rules govern how the school district board of directors shall calculate the previous cost of the last contested school election in an odd-number year.

- a. **Calculation of the most recent odd-numbered year contested election for an at-large board of director's position or a change in the millage rate:** The district shall determine the total amount of reimbursement the school district paid to the county in which the district is domiciled for the most recent odd year election requiring polling sites to be opened district wide. The district shall then determine the percentage of the school district's qualified electors which reside in each county of the district as of the close of voter registration for that election. The previous cost of the most recent election for each county in the district shall be the percentage of the total reimbursement in the previous election that corresponds with the percentage of qualified electors living in each county.
- b. **Calculation of the most recent odd-numbered year contested election for board of director's positions elected by zone if no change in the school millage appears on the ballot:** The district shall determine the total amount of reimbursement paid by the district to the county in which the district is domiciled for the most recent odd year election in which the same number of zones were contested as are contested in the current election and polls were not required to be open district wide. The district shall then determine the percentage of the school district's qualified electors which reside in the zone or zones which are contested in the present elections for each county as of the close of voter registration for that election. The previous cost of the most recent election for each county in this case shall be the percentage of the total reimbursement in the previous election that corresponds with the percentage of qualified electors living in the contested zones that lie in each county.

If a school district cannot determine the cost of the most recent odd year election in which the appropriate number of zones were contested, the district shall instead use the most recent contested school district election in which polls were open countywide to calculate previous cost. The county board of election commissioners for the domiciled county shall assist the district, if requested, in determining the amount of past reimbursements.

### **§ 1208 Special Rules of the Calculation of an Annual School Election Held with a General Election or General Election Runoff**

When an annual school election is held at the same time as the general election or its runoff, the county board shall first calculate the additional costs of the annual school election. That calculation shall be made pursuant to these rules and relevant state law.

The county board shall then subtract the Additional Cost of the school election from the Actual Election Expenses to determine the total cost of the election to the county pursuant to these rules.

The county board shall then use this number to calculate the portion of the election costs that municipalities must reimburse to the county pursuant to Ark. Code Ann. §7-5-104.

The county board shall provide the appropriate official in each city or incorporated town within the county a bill which clearly states the amount that city or incorporated town must reimburse the county for the election and a concise explanation of how this amount was calculated.

### **§ 1209 Reimbursement of Runoff Elections in Even Numbered Years**

The entire cost of a runoff in an annual school election held on an even year shall be reimbursed by the school district to the county if the runoff is caused by the school election and the school election issue is the only issue on the ballot.<sup>5</sup>

If there is a runoff in both the annual school election and another election held with the annual school election, the additional costs of that runoff shall be reimbursed to the county pursuant to these rules in the same manner as the annual school election. The allocated previous cost that is used to calculate the reimbursable additional cost for the runoff election shall be the same as the allocated previous cost used in the calculation for the reimbursement for the annual school election which necessitated the runoff.

The following rules shall apply when a runoff election for the annual school election is held in which some of the polling locations that are opened have only school election issues on the ballot and other polling locations with the same school election runoff, also have additional runoff issues from another election on the ballot. The school districts shall reimburse the county for all election costs associated with the polling locations with only the school election runoff on their ballots. The school district shall reimburse the county for all additional costs associated with those polling locations with multiple runoff issues on the ballot. The additional cost for these polling locations shall be calculated in the same manner as the annual school election.

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<sup>5</sup> Ark. Code Ann. § 6-14-118(c).

### **§ 1210 Pre-Election Requirements of the County Clerk's Office Regarding Candidate Filing**

At the close of candidate filing, the county clerk of the county in which a school district is domiciled shall certify to the board of election commissioners in the domicile county the names of all candidates who have properly filed for office and whose petitions have been accepted.<sup>6</sup> The county clerk must also certify any write-in candidates who have properly filed.

When an annual school election is held in an even numbered year, the county clerk of the domicile county shall also certify to the county boards of election commissioners for any other county in which the school district has territory the same list of school board candidates and write in candidates.

The certified list of candidates shall state the zone for which each candidate or write-in candidate is seeking election and all counties that lie within that zone.

### **§ 1211 Pre-Election Requirements of the School District Regarding Issues on the Ballot**

In even years, a school district shall inform the county clerk of each county in which the district has territory of all issues to be placed on the ballot including the rate of the millage if applicable.

### **§ 1212 Procedures for the Production and Transfer of Election Returns in Polling Locations Outside the County in which a School District is Domiciled**

At the close of the polls for an election held in an even number year, the election officials in each polling location or central tabulation location in which election results are produced by printing a results tape or other document from a voting machine shall print one additional results tape for each school district which is not domiciled in that county and which has a candidate or ballot issue reflected in those returns.<sup>7</sup> All additional copies of the results tape shall be signed by the appropriate election officials as certified returns. Election officials of a county which a school district is not domiciled in shall file certified election returns for all precincts voting in that school district's election with the county clerk of the county in which each school district is domiciled.

If voting results are counted in any other manner, the election official certifying the returns for each polling location or central tabulation location shall produce an additional certified return for each school district which is not domiciled in that county and which has a candidate or ballot issue reflected in those returns. Election officials of a county in which a school district is not domiciled

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<sup>6</sup> Ark. Code Ann. § 6-14-111(i).

<sup>7</sup> Ark. Code Ann. §6-14-115(a).

shall file certified election returns for all precincts voting in that school district's election with the county clerk of the county in which each school district is domiciled.

The county board of any county that is required to file certified school election returns with the county clerk of a neighboring county in which that school district is domiciled is responsible for ensuring that these returns reach the neighboring county clerk and county board on election night. If, for any reason, the additional results tapes are not produced and filed with the neighboring county clerk, the county board shall produce a copy of all results from all precincts which included that school district's races, certify the veracity of those results, and file that copy with the appropriate county clerk and county board.

Returns for the annual school election in even years shall be reported as unofficial election results using the statewide election night reporting system by the county in which the votes were cast.