

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



Secretary of State  
John Thurston  
500 Woodlane Street, Suite 026  
Little Rock, Arkansas 72201-1094  
(501) 682-5070  
[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



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Name of Department \_\_\_\_\_

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person \_\_\_\_\_

Contact E-mail \_\_\_\_\_

Contact Phone \_\_\_\_\_

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Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_

## Notice of Rulemaking

Pursuant to Arkansas Code Annotated § 25-15-201 *et seq.*, notice is hereby given that the Arkansas Department of Transformation and Shared Services is considering the following new rules: 1) Rule Governing the Unlawful Propagation of Divisive Concept Training and 2) Rules Governing Mandatory Procurement Training Program. A public hearing will be held June 29, 2022, at 2:00 pm in the Ouachitas Bid Room, 501 Woodlane Avenue, Ground Floor, Little Rock, AR 72201. Written comments should be mailed to TSS, Attn: Public Comments at P.O. Box 3522, Little Rock, AR 72203. Comments may also be e-mailed to [TSS.RulesComments@arkansas.gov](mailto:TSS.RulesComments@arkansas.gov). Copies of the proposed rule may also be obtained from the Department of Transformation and Shared Services, 501 Woodlane Avenue, Suite 101-N, Little Rock, AR 72201, or by accessing the Department's website at <https://www.transform.ar.gov/secretarys-office/legal/rules-hearings/>.



Department of Transformation and Shared Services  
Rule Governing the Unlawful Propagation of Divisive Concept Training

State Entity Reporting

State Entity \_\_\_\_\_

State Entity Contact \_\_\_\_\_ Title \_\_\_\_\_

E-Mail Address \_\_\_\_\_ Work Number \_\_\_\_\_

Reporting Year \_\_\_\_\_

I certify that the state entity listed above is in compliance with the requirements of the Rule Governing the Unlawful Propagation of Divisive Concept Training for the designated reporting year.

\_\_\_\_\_  
Signature Date



Department of Transformation and Shared Services  
Rule Governing the Unlawful Propagation of Divisive Concept Training

Pursuant to Arkansas Code Annotated § 25-1-901 *et seq.*, a state entity, its employees, or any contractors hired by the state entity to provide training, workshops, forums, or similar programming (training) shall not teach, advocate, act upon, or promote in any training to state employees any divisive concept. This rule applies to a state entity as defined in Arkansas Code Annotated § 25-1-901(4)(A).

Each state entity shall:

1. Identify any grant programs that the state entity will require the recipient, as a condition of receiving the grant, to certify that the recipient will not use state funds or assets to promote a divisive concept;
2. Review any training programs the Department has relating to diversity or inclusion efforts;
3. Develop and issue a policy prohibiting the training, teaching, or instructing on divisive concepts;
4. Assign at least one (1) employee who is responsible for ensuring the state entity's compliance with its policy; and
5. Review and assess the state entity's compliance with its policy and submit a report to the Department of Transformation and Shared Services (TSS) detailing the state entity's compliance.

The report detailing compliance must be submitted to TSS by December 31 annually, with the first report due by December 31, 2022. TSS will develop a report format that the state entity must use when submitting their reports. State entities are responsible for maintaining documentation certifying that they are in compliance with these rules.

TSS may notify the Governor if a state entity fails to comply with these rules. In the event of noncompliance, TSS will first notify the state entity and provide the state entity an opportunity to cure the noncompliance.

## **FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

DEPARTMENT \_\_\_\_\_  
DIVISION \_\_\_\_\_  
PERSON COMPLETING THIS STATEMENT \_\_\_\_\_  
TELEPHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_ EMAIL: \_\_\_\_\_

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

### **SHORT 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 an agency is proposing a more costly rule, please state the following:

- 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 more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

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

Next Fiscal Year

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

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

Total \_\_\_\_\_

Total \_\_\_\_\_

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

Current Fiscal Year

Next Fiscal Year

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

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

Total \_\_\_\_\_

Total \_\_\_\_\_

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

Current Fiscal Year

Next Fiscal Year

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

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

6. What is the total estimated cost by fiscal year to state, county, and 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.

**From:** [legalads@arkansasonline.com](mailto:legalads@arkansasonline.com)  
**To:** [Jennifer Elkins](#)  
**Subject:** Re: Notice of Rulemaking  
**Date:** Monday, June 13, 2022 3:36:56 PM

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Just barely able to pull it from Wed 6/15 (deadline was 12 noon today).

This will run, instead, on Fri 6/17, Sat 6/18, and Sun 6/19.

Thank you.

Gregg Sterne, Legal Advertising  
Arkansas Democrat-Gazette  
[legalads@arkansasonline.com](mailto:legalads@arkansasonline.com)

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**From:** "Jennifer Elkins" <[Jennifer.Elkins@arkansas.gov](mailto:Jennifer.Elkins@arkansas.gov)>  
**To:** [legalads@arkansasonline.com](mailto:legalads@arkansasonline.com)  
**Cc:** "Anthony Black" <[Anthony.Black@arkansas.gov](mailto:Anthony.Black@arkansas.gov)>  
**Sent:** Monday, June 13, 2022 3:18:40 PM  
**Subject:** RE: Notice of Rulemaking

Mr. Sterne,

Can you please revise our publication dates to Fri 6/17, Sat 6/18, and Sun 6/19? Thank you.

## Jennifer Elkins

Statewide Program Manager

Transformation and Shared Services, Office of Personnel Management  
o. 501.682.5350  
[jennifer.elkins@arkansas.gov](mailto:jennifer.elkins@arkansas.gov)

## EPIC Service

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**From:** Jennifer Elkins  
**Sent:** Monday, June 13, 2022 12:18 PM  
**To:** [legalads@arkansasonline.com](mailto:legalads@arkansasonline.com)  
**Cc:** Anthony Black <[Anthony.Black@arkansas.gov](mailto:Anthony.Black@arkansas.gov)>  
**Subject:** RE: Notice of Rulemaking

Thank you for the confirmation.

## Jennifer Elkins

Statewide Program Manager

Transformation and Shared Services, Office of Personnel Management  
o. 501.682.5350  
[jennifer.elkins@arkansas.gov](mailto:jennifer.elkins@arkansas.gov)

## EPIC Service

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**From:** [legalads@arkansasonline.com](mailto:legalads@arkansasonline.com) <[legalads@arkansasonline.com](mailto:legalads@arkansasonline.com)>  
**Sent:** Monday, June 13, 2022 11:13 AM  
**To:** Jennifer Elkins <[Jennifer.Elkins@arkansas.gov](mailto:Jennifer.Elkins@arkansas.gov)>  
**Subject:** Re: Notice of Rulemaking

Will run Wed 6/15, Thurs 6/16, and Fri 6/17. Thank you.

Gregg Sterne, Legal Advertising  
Arkansas Democrat-Gazette  
[legalads@arkansasonline.com](mailto:legalads@arkansasonline.com)

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**From:** "Jennifer Elkins" <[Jennifer.Elkins@arkansas.gov](mailto:Jennifer.Elkins@arkansas.gov)>  
**To:** [legalads@arkansasonline.com](mailto:legalads@arkansasonline.com)  
**Cc:** "Anthony Black" <[Anthony.Black@arkansas.gov](mailto:Anthony.Black@arkansas.gov)>  
**Sent:** Monday, June 13, 2022 10:30:38 AM  
**Subject:** Notice of Rulemaking

Good morning,

Please run the attached Notice of Rulemaking for 3 consecutive days as soon as possible. The billing address is the Arkansas Department of Transformation and Shared Services, PO Box 3522, Little Rock, AR 72203.

If you have any questions, please contact me at 501-682-5350.

Please confirm the dates in which the notice will run. Thank you.

### Jennifer Elkins

Statewide Program Manager



Transformation and Shared Services, Office of Personnel Management  
o. 501.682.5350  
[jennifer.elkins@arkansas.gov](mailto:jennifer.elkins@arkansas.gov)

## EPIC Service





Department of Transformation and Shared Services  
Rule Governing the Unlawful Propagation of Divisive Concept Training

SUMMARY

Act 1100 of 2021 requires TSS to develop rules regarding the unlawful propagation of divisive concept training. This rule prohibits state entities from training on divisive concepts and contains other state entity compliance requirements. Each state entity is required to develop a policy prohibiting divisive concept propagation and to review its training and grant programs to ensure compliance with Act 1100. The rule requires each state entity to submit a report to TSS by December 31 of each year documenting its compliance with the Act. The rule authorizes TSS to notify the Governor if a state entity fails to comply the rule's requirements. The reporting form documenting compliance with the rule's requirements is included along with the rule.