

ARKANSAS DEPARTMENT OF EDUCATION
DIVISION OF ELEMENTARY AND
SECONDARY EDUCATION
RULES GOVERNING BACKGROUND CHECKS
Effective Date: ~~October 30, 2017~~

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1.00 REGULATORY AUTHORITY AND PURPOSE

- 1.01 These rules shall be known as ~~Arkansas Division of Education~~ the Division of Elementary and Secondary Education Rules Governing Background Checks.
- 1.02 The State Board of Education enacts these Rules pursuant to its authority as set forth in Ark. Code Ann. §§ 6-11-105, 6-17-402, 6-17-410, 6-17-411, 6-17-414, 6-17-415, 6-17-421, 25-15-201 et seq., and ~~Act 746 of 2017~~ Acts 536, 1040 of 2019.
- 1.03 It is the purpose of these rules to set forth the requirements for a criminal background check and a Child Maltreatment Central Registry check for:
- 1.03.1 Each first-time applicant for a license issued by the State Board of Education;
- 1.03.2 Each applicant for his or her license renewal;
- 1.03.3 Each applicant for initial employment in a licensed staff position with an educational entity;
- 1.03.4 Each applicant for initial employment or non-continuous reemployment in a nonlicensed staff position with an educational entity; and
- 1.03.5 Each preservice teacher.
- 1.04 It is further the purpose of these rules to prescribe the procedure for revoking, suspending, or placing on probation an educational license when an applicant is disqualified for licensure on the basis of a background check under these rules.
- 1.05 It is further the purpose of these rules to clarify that superintendents, ~~and~~ directors of educational entities, and third party vendors shall have the

responsibility of reporting licensure violations of teachers, disqualifying offenses of classified employees, and fraudulent acts by Fiscal Officers to the State Board.

- 1.06 It is further the purpose of these rules to provide for the participation in state and federal rap back programs.

2.00 DEFINITIONS

For the purposes of these rules:

- 2.01 **“Affected District”** means a public school district that loses territory or students as a result of annexation, consolidation, or detachment.
- 2.02 **“Applicant”** includes any individual who must apply to the Identification Bureau of the Division of Arkansas State Police for a statewide or nationwide criminal records check or with the Arkansas Child Maltreatment Central Registry check as a condition for a license issued by the State Board of Education under Ark. Code Ann. § 6-17-410 or as a condition for employment by an educational entity under Ark. Code Ann. §§ 6-17-411, 6-17-414, or 6-17-421.
- 2.03 **“Breach of Fiduciary Trust”** means the wrongful misappropriation by a person of any fund or property, which had lawfully been committed to him or her in a fiduciary character.
- 2.04 ~~“Division”~~ **“Division”** means the Arkansas Department of Education Division of Elementary and Secondary Education.
- 2.05 **“Educational entity”** means:
- 2.05.1 ~~The Department of Education~~ The Division of Elementary and Secondary Education; or
- 2.05.2 An entity that is identified by the ~~Department~~ Division as a local education agency, except that for a public school operated by a school district the school district is the educational entity.
- 2.06 **“Employment”** includes any contract of hire, whether written or oral, whether express or implied, for any type of work on behalf of an educational entity, whether full-time or part-time, and whether permanent or temporary.
- 2.06.1 “Employment” also specifically includes without limitation:

- 2.06.1.1 Service as a substitute teacher, whether paid or unpaid; and
- 2.06.1.2 Student teacher in a supervised clinical practice, whether paid or unpaid.
- 2.06.2 “Employment” does not include contractors and workers for hire from third party vendors under the exclusion in Section 2.20.2 of these rules.
- 2.07 **“Fiscal Officer”** means any licensed or nonlicensed employee of an educational entity who has any right, duty, or responsibility to access funds of the educational entity in excess of five thousand dollars (\$5,000), specifically including without limitation superintendents, Fiscal Officers and bookkeepers.
- 2.08 **“Fraud”** means all acts, omissions and concealments involving a breach of a legal or equitable duty and resulting in damage to another.
- 2.09 **“Fraudulent Act”** means an act:
 - 2.09.1 Performed willfully and with the specific intent to deceive or cheat for the purpose of either causing some financial loss to another or bringing about some financial gain to the actor; and
 - 2.09.2 ~~For~~ In which the actor has pleaded guilty or nolo contendere, ~~to~~ or has been found guilty by any court in this state, ~~by a court in~~ another state, or by a federal court.
- 2.10 **“Initial employment”** means the first time that an applicant has been employed by an educational entity.
- 2.11 **“Law enforcement officer”** means a state police officer, a city police officer, a sheriff or a deputy sheriff.
- 2.12 **“Letter of provisional eligibility”** means a six-month, non-renewable letter of provisional eligibility for licensure issued by the State Board of Education to an applicant for first-time licensure during the period that a criminal records check and Child Maltreatment Central Registry check are being conducted.
- 2.13 **“Non-continuous reemployment”** means employment in an educational entity by an applicant who was previously employed by the same entity but not at any point during the immediately preceding school year.
- 2.14 **“Nonlicensed staff position”** means a position with an educational entity,

which position does not require the holder of the position to possess an Arkansas teacher's license.

2.14.1 "Nonlicensed staff position" includes a:

- 2.14.1.1 Parental monitor on a school bus as permitted under A.C.A. § 6-19-127;
- 2.14.1.2 Staff position for which the nonlicensed staff person is either paid directly by the educational entity or by a third party vendor under contract with the educational entity to staff the position; and
- 2.14.1.3 Designated employee position with the ~~Department~~ Division.

2.15 **"Preservice teacher"** means an unlicensed person accepted or enrolled in a teacher preparation program approved by the ~~Department~~ Division.

2.16 **"Rap Back program"** means a state or federal program that provides notification to the ~~Department of Education~~ Division of an arrest subsequent to an initial background check that is conducted pursuant to these rules.

2.17 **"Receiving or resulting public school district"** means a public school district that is created or gains territory or students as the result of a consolidation, annexation, or detachment.

2.18 **Revocation** means the invalidation of any educator's license. The revocation will remain permanently in the DESE file of the educator and in the files retained by the PLSB. An Educator whose licensed has been revoked may refer to the Division of Elementary and Secondary Education Rules Governing Licensure on the reinstatement of a revoked license.

2.189 **"State Board"** means the Arkansas State Board of Education.

2.1920 **"Supervised clinical practice"** means the placement of a preservice teacher by a teacher preparation program approved by the Division at the educational entity for the purpose of the student completing an internship or a student teaching experience required by the teacher education program.

2.201 **"Third party vendor"** (or "outside vendor") means:

- 2.201.1 A person or business organization that contracts with an educational entity to provide staffing for:

- 2.201.1.1 Nonlicensed positions;
- 2.201.1.2 Positions requiring a license issued by the State Board;
and
- 2.201.1.3 Positions where the requirement for a license is waived
by the State Board

2.201.2 "Third party vendor" does not include a contractor or vendor who is temporarily on an educational entity's property solely for the purpose of routine maintenance or service and who is not filling a staff position.

Source: Ark. Code Ann. §§ 6-17-410, 6-17-411, 6-17-414, 6-17-417, and 6-17-421, as amended by Act 746 of 2017.

3.00 LICENSURE, LICENSE RENEWALS, AND LICENSE REVOCATION

3.01 Unless a waiver is granted pursuant to this Section 3.00, the State Board shall not issue a license or license renewal to, and shall revoke, suspend, or place on probation the existing license of any individual who:

3.01.1 Has pled guilty, pled nolo contendere to, or been found guilty of any offense that will or may result in license revocation under Ark. Code Ann. § 6-17-410;

3.01.2 Has a sealed, an expunged, or a pardoned conviction for any sexual or physical abuse offense in Ark. Code Ann. § 6-17-410(c) that involves the physical or sexual injury, mistreatment, or abuse of another, committed against a child or any offense that will or may result in license revocation under Ark. Code Ann. § 6-17-410.

3.01.2.1 A sealed, an expunged, or a pardoned conviction shall not disqualify a person if the conviction is ~~ten~~ (10) or more years old and does not involve the physical or sexual injury, mistreatment, or abuse of another;

3.01.3 Has a true report in the Child Maltreatment Central Registry;

3.01.4 Holds a teaching or similar license obtained by fraudulent means;

3.01.5 Has had a teaching or similar license revoked in another state for any reason that Arkansas would disqualify the individual for licensure or employment under these rules;

- 3.01.6 Intentionally compromises the validity or security of any student test or testing program administered by or required by the State Board or the ~~Department~~ Division;
 - 3.01.7 Has the completed examination test score of any testing program required by the State Board for teacher licensure declared invalid by the testing program company and so reported to the ~~Department~~ Division by the testing company;
 - 3.01.8 Fails to establish or maintain the necessary requirements and standards set forth in Arkansas law or State Board rules and regulations for teacher licensure;
 - 3.01.9 Knowingly submits or provides false or misleading information or knowingly failing to submit or provide information requested or required by law to the ~~Department~~ Division, the State Board, or the ~~Department of~~ Arkansas Legislative Audit; or
 - 3.01.10 Knowingly falsifies or directs another to falsify any grade given to a student, whether the grade was given for an individual assignment or examination or at the conclusion of a regular grading period.
- 3.02 Before denying an application for licensure or renewal, or taking action against an existing license, the ~~Department~~ Division shall provide to the Applicant or licensee a written notice of the reason for the action and shall afford the Applicant or licensee the opportunity to request a hearing before the State Board.
- 3.02.1 Upon receiving the written notice required by this section a person may:
 - 3.02.1.1 Decline to answer the notice, in which case the State Board shall hold a hearing to establish by a preponderance of the evidence that cause for the proposed action exists;
 - 3.02.1.2 Contest the allegations of fact and request a hearing in writing, in which case the person shall be given an evidentiary hearing before the State Board if one is requested;
 - 3.02.1.3 Admit the allegations of fact and request a hearing before the State Board to request a waiver; or
 - 3.02.1.4 Stipulate or reach a negotiated agreement, which must

be approved by the State Board.

- 3.02.2 A preservice teacher who receives notice under this section and who desires to request a hearing before applying for licensure shall submit to the ~~Department~~ Division the following items with the written request for a hearing:
 - 3.02.2.1 Proof of acceptance or enrollment in a teacher preparation program approved by the ~~Department~~ Division; and
 - 3.02.2.2 A written recommendation from the teacher preparation program.
- 3.02.3 A written request for hearing by the Applicant, licensee, or board of directors of a school district or open-enrollment public charter school must be received by the ~~Department's~~ Division's Office of Legal Services no more than thirty (30) calendar days after the receipt of the notice of denial, nonrenewal, or other action by the Applicant or licensee.
 - 3.02.3.1 If the person requesting a hearing fails to appear at the hearing, the hearing shall proceed in the manner described in Section 3.02.1.1 above.
- 3.03 Any hearing shall comply with the procedures set forth in Section 8.00 herein.
- 3.04 Circumstances for which a waiver may be granted after a hearing pursuant to Sections 3.02 or 3.03 shall include without limitation the following:
 - 3.04.1 The age at which the crime or incident was committed;
 - 3.04.2 The circumstances surrounding the crime or incident;
 - 3.04.3 The length of time since the crime or incident;
 - 3.40.4 Subsequent work history;
 - 3.04.5 Employment references;
 - 3.04.6 Character references; and
 - 3.04.7 Other evidence demonstrating that the applicant does not pose a threat to the health or safety of school children or school

personnel.

- 3.05 After a hearing, the State Board may take one (1) or more of the following actions:
 - 3.05.1 Revoke a license permanently or allow an educator the ability to apply for reinstatement pursuant to Act 628 of 2019;
 - 3.05.2 Suspend a license for a terminable period of time or indefinitely;
 - 3.05.3 Place or grant a license on probationary status for a terminable period of time with the license to be revoked or suspended if the probationary period is not successfully completed;
 - 3.05.4 Impose a monetary penalty not to exceed five hundred dollars (\$500.00) for each violation;
 - 3.05.5 Require a licensee to complete appropriate professional development programs, education courses, or both;
 - 3.05.6 Require a licensee to successfully complete a licensing examination, credentialing examination, or any other examination required by law or rule to obtain a permit, license, endorsement, or
 - 3.05.7 Impose conditions or restrictions on the teaching or educational activities of the licensee;
 - 3.05.8 Impose any other requirement or penalty as may be appropriate under the circumstances of the case and which would achieve the State Board's desired disciplinary purposes, but which would not impair the public health or welfare; or
 - 3.05.9 Take no action against a license.
- 3.06 If after a hearing the State Board approves a waiver for a licensee, the waiver shall also operate as a waiver under Ark. Code Ann. § 6-17-411 for the licensee to work for an educational entity.
- 3.07 If, after a hearing, the State Board approves a waiver for a preservice teacher:
 - 3.07.1 The individual may obtain a license only upon:
 - 3.07.1.1 Successful completion of the teacher preparation program for which the preservice teacher has

provided proof of acceptance or enrollment under Section 3.02.2.1; and

3.07.1.2 Fulfillment of all other requirements for licensure.

3.07.2 A waiver granted under this Section 3.06 shall also operate as a waiver under Ark. Code Ann. § 6-17-414 for the preservice teacher to work for a school district as a student teacher.

Source: Ark. Code Ann. § 6-17-410, as amended by Act 746 of 2017.

4.00 BACKGROUND CHECKS REQUIRED FOR LICENSURE AND SCHOOL EMPLOYMENT

4.01 Except as otherwise provided herein, an Applicant may not be issued a first-time license or license renewal, nor may an Applicant be employed by or serve in a supervised clinical practice at an educational entity, without the successful completion of a criminal records check and the successful completion of a Child Maltreatment Central Registry check as required by these Rules.

4.01.1 Before a teacher or administrator may be hired for employment at an Arkansas school, the school hiring officer shall check the Arkansas Educator Licensure System (AELS) to determine whether the State Board has acted upon a violation of Standard 1 involving the sexual abuse of a student by the applicant.

Source: Ark. Code Ann. § 6-17-428(p)

4.02 Applicants for a first-time license issued by the State Board:

4.02.1 Each first-time Applicant for a license issued by the State Board shall be required to apply to:

4.02.1.1 The Identification Bureau of the Division of Arkansas State Police for a state and federal criminal records check including the taking of fingerprints; and

4.02.1.2 The Division of Human Services for a Child

Maltreatment Central Registry check.

- 4.02.2 A background check for a first-time Applicant for a license obtained during the twelve (12) months before the license is issued meets the requirement under 4.02.1 for the first-time Applicant.
- 4.02.3 The State Board may issue a six-month, non-renewable letter of provisional eligibility for licensure to a first-time Applicant if the Applicant meets all other qualifications, pending the results of the nationwide criminal records and Child Maltreatment Central Registry checks.
- 4.02.4 The Commissioner of Elementary and Secondary Education may extend the period of provisional eligibility to the end of the contract year if:
 - 4.02.4.1 The Applicant is employed by an educational entity; and
 - 4.02.4.2 Results of the nationwide criminal records check or Child Maltreatment Central Registry check are delayed.
- 4.02.5 The letter of provisional eligibility will immediately become invalid upon receipt of information that the Applicant has a true report on the Child Maltreatment Central Registry or information obtained from the criminal records check from the Arkansas State Police or the FBI, or other eligibility information, indicating that the applicant has pled guilty or nolo contendere to, or has been found guilty of, any offense that will or may result in license revocation under Ark. Code Ann. § 6-17-410.
- 4.02.6 The Applicant shall be responsible for the payment of any fees associated with the criminal records check and Child Maltreatment Central Registry check.

4.03 Applicants for a license renewal:

- 4.03.1 Each Applicant for license renewal shall be required to apply to:
 - 4.03.1.1 The Identification Bureau of the Division of Arkansas State Police for a state and federal criminal records check including the taking of fingerprints; and
 - 4.03.1.2 The Division of Human Services for a Child

Maltreatment Central Registry check.

- 4.03.2 The Applicant should begin the process of obtaining the criminal records check and Child Maltreatment Central Registry check by July 1 of the year in which the Applicant's license expires.
 - 4.03.3 The State Board may issue a six-month, non-renewable letter of provisional eligibility for licensure to a first-time Applicant if the Applicant meets all other qualifications, pending the results of the nationwide criminal records and Child Maltreatment Central Registry checks.
 - 4.03.4 The Commissioner of Elementary and Secondary Education may extend the period of provisional eligibility to the end of the contract year if:
 - 4.03.4.1 The Applicant is employed by a public school district or open-enrollment public charter school; and
 - 4.03.4.1 Results of the nationwide criminal records check or Child Maltreatment Central Registry check are delayed.
 - 4.03.5 The letter of provisional eligibility will immediately become invalid upon receipt of information that the Applicant has a true report on the Child Maltreatment Central Registry or information obtained from the criminal records check from the Arkansas State Police or the FBI, or other eligibility information, indicating that the applicant has pled guilty or nolo contendere to, or has been found guilty of, any offense that will or may result in license revocation under Ark. Code Ann. § 6-17-410.
 - 4.03.6 This Applicant shall be responsible for the payment of any fees associated with the criminal records check and Child Maltreatment Central Registry check.
- 4.04 **Preservice teachers:**
- 4.04.1 Each Applicant who is a preservice teacher shall apply to:
 - 4.04.1.1 The Identification Bureau of the Division of Arkansas State Police for a state and federal criminal records check including the taking of fingerprints; and
 - 4.04.1.2 The Division of Human Services for a Child

Maltreatment Central Registry check.

- 4.04.2 The Applicant shall be responsible for the payment of any fees associated with the criminal records check and Child Maltreatment Central Registry check.
 - 4.04.3 These rules do not require an institution of higher education to bar a student from enrollment due to a disqualifying criminal conviction or a true report in the Child Maltreatment Central Registry.
 - 4.04.4 The preservice teacher shall successfully complete the required ~~the~~ criminal records check and Child Maltreatment Central Registry check before beginning a supervised clinical practice for a school district or public charter school.
- 4.05 Applicants for employment in a licensed staff position:**
- 4.05.1 Each Applicant for initial employment or non-continuous reemployment in a licensed staff position for an educational entity shall be required as a condition of employment to apply to:
 - 4.05.1.1 The Identification Bureau of the Division of Arkansas State Police for a state and federal criminal records check including the taking of fingerprints; and
 - 4.05.1.2 The Division of Human Services for a Child Maltreatment Central Registry check.
 - 4.05.2 The board of directors of a receiving or resulting public school district in a consolidation, annexation, or detachment may waive the requirements of this Section 4.05 for personnel who were employed by an affected district immediately prior to the annexation, consolidation, or detachment and who had a complete criminal records check conducted as a condition of the person's most recent employment with the affected district as required under this section.
 - 4.05.3 An educational entity shall not employ in a licensed staff position any individual who has a true report in the Child Maltreatment Central Registry, unless the State Board granted a waiver by awarding a license or renewal under Section 3.00 herein.
 - 4.05.4 An educational entity shall not employ in a licensed staff position any individual who has pled guilty, pled nolo contendere to, or been found guilty of any offense that will or may result in license

revocation under Ark. Code Ann. § 6-17- 410, unless the State Board granted a waiver by awarding a license or renewal under Section 3.00 herein.

4.05.5 An educational entity may offer provisional employment to an affected Applicant pending notification from the Division that the:

4.05.5.1 Applicant is eligible for employment based on the background checks; or

4.05.5.2 State Board has waived the disqualifying offense or placement on the Child Maltreatment Central Registry.

4.05.6 The Applicant shall be responsible for the payment of any fees associated with the criminal records check and Child Maltreatment Central Registry check, unless the board of directors of the employing educational entity chooses to pay the fees.

4.06 Applicants for employment in a nonlicensed staff position:

4.06.1 Each Applicant for initial employment or non-continuous reemployment in a nonlicensed staff position for an educational entity, shall be required as a condition of employment to apply to:

4.06.1.1 The Identification Bureau of the Division of Arkansas State Police for a state and federal criminal records check including the taking of fingerprints; and

4.06.1.2 The Division of Human Services for a Child Maltreatment Central Registry check.

4.06.2 The board of directors of a receiving or resulting public school district in a consolidation, annexation, or detachment may waive the requirements of this Section 4.06 for personnel who were employed by an affected district immediately prior to the annexation, consolidation, or detachment and who had a complete criminal records check conducted as a condition of the person's most recent employment with the affected district as required under this section.

4.06.3 An educational entity shall not employ in a nonlicensed staff

position any individual who has a true report in the Child Maltreatment Central Registry or who has pled guilty or nolo contendere to, or has been found guilty of, any offense identified in Ark. Code Ann. § 6-17-414(b).

- 4.06.4 An educational entity may offer provisional employment to an affected Applicant pending receipt of the results of the nationwide criminal records or Child Maltreatment Central Registry checks.
- 4.06.5 The Applicant shall be responsible for the payment of any fees associated with the criminal records check and Child Maltreatment Central Registry check, unless the board of directors of the employing educational entity chooses to pay the fees.
- 4.06.6 Notwithstanding the provisions of Section 4.05.5, an educational entity may at its discretion ~~require criminal records checks and Child Maltreatment Central Registry checks of existing nonlicensed employees in the same manner as set forth herein, so long as the educational entity pays the full cost of the criminal records checks and Child Maltreatment Central Registry checks.~~ A school district shall require a criminal records check and Child Maltreatment Central Registry check at least one (1) time every five (5) years.
 - 4.06.6.1 School districts should review all classified employees records to see when their last background check was completed.
- 4.06.7 If an applicant for employment has been determined ineligible for employment because the applicant has a true report in the Child Maltreatment Central Registry, or has pled guilty or nolo contendere to, or has been found guilty of, any offense identified in Ark. Code Ann. § 6-17-414(b), the board of directors of the educational entity shall provide a written notice to the applicant and shall afford the applicant the opportunity to request a waiver.

- 4.06.7.1 The waiver shall be requested, pursuant to school district policy, no more than thirty (30) days after receipt of the notice of the denial of employment.

- 4.06.7.2 The waiver may be requested by:

- 4.06.7.2.1 The hiring official;

4.06.7.2.2 The affected applicant; or

4.06.7.2.3 The person subject to dismissal.

4.06.7.3 Circumstances for which a waiver may be granted shall include without limitation the following:

4.06.7.3.1 The age at which the incident was committed;

4.06.7.3.2 The circumstances surrounding the incident;

4.06.7.3.3 The length of time since the incident;

4.06.7.3.4 Subsequent work history;

4.06.7.3.5 Employment references;

4.06.7.3.6 Character references; and

4.06.7.3.7 Other evidence demonstrating that the applicant does not pose a threat to the health or safety of school children or school personnel.

4.06.7.4 The board of directors of the educational entity may grant the waiver by adopting a written resolution identifying the applicant by name and listing the specific facts and circumstances for which the waiver is being granted.

4.06.7.4.1 A waiver request may be discussed and acted upon by the board of directors only in an open public meeting and not in an executive session.

4.06.7.4.2 After adopting the resolution, the board of directors shall immediately provide a copy of the resolution and waiver request to the ~~Department~~ Division.

4.07 If an Applicant is employed by a third party vendor under contract with the educational entity, the educational entity may— but is not required to — afford the Applicant the opportunity to request a waiver from the school district board of directors.

Source: Ark. Code Ann. §§ 6-17-410, 6-17-411, and 6-17-414.

5.00 BACKGROUND CHECK PROCEDURES

5.01 The criminal records check and Child Maltreatment Central Registry check required by these Rules shall be initiated by the submission to the ~~Department~~ Division of a form developed by the ~~Department~~ Division containing a release of information and notice of the purpose for fingerprinting signed by the Applicant.

5.01.1 For the purposes of these Rules, a criminal records check shall consist of a statewide criminal records check to be conducted by the Division of Arkansas State Police and a nationwide criminal records check to be conducted by the Federal Bureau of Investigation.

5.01.2 Criminal records checks shall conform to the applicable federal or state standards and shall include the taking of fingerprints. The Identification Bureau of the Division of Arkansas State Police and the FBI may maintain these fingerprints in the automated fingerprint identification system.

5.01.3 An educational entity that is initiating a criminal records check shall:

5.01.3.1 Subscribe to the Arkansas State Police online background check system and

5.01.3.2 Simultaneously initiate both the state and federal criminal records check on that system.

5.01.4 An individual who initiates the criminal records check shall use the online system approved by the ~~Department~~ Division and identified on the ~~Department's~~ Division's website.

5.01.5 Every Applicant shall complete the consent forms prescribed by the ~~Department~~ Division.

5.01.6 Each applicant shall provide fingerprints by:

5.01.6.1 An electronic fingerprinting method approved by the Arkansas State Police;

- 5.01.6.2 Completing the State Police fingerprint card in the presence of a law enforcement officer, and shall have the law enforcement officer sign the fingerprint card and give his/her jurisdiction, the date, and his/her badge number, or
- 5.01.6.3 By any other method approved by the ~~Department of Education~~ Division.
- 5.01.7 If a legible set of fingerprints, as determined by the Identification Bureau of the Division of Arkansas State Police, cannot be obtained after a minimum of two (2) attempts, the Division shall determine eligibility for licensure or employment based upon a name check by the Identification Bureau of the Division of Arkansas State Police and the Federal Bureau of Investigation.
- 5.01.8 To be valid for consideration, a criminal records check or Child Maltreatment Central Registry check must have been completed no earlier than twelve (12) months prior to the application for licensure, renewal, or employment.
- 5.01.9 A criminal records check shall be conducted only under the specific Arkansas law governing the request.
 - 5.01.9.1 Every employer or prospective employer of an Applicant shall ensure that the Applicant is correctly informed of the proper reason for the criminal records checks by providing to the Applicant instructions developed by the ~~Department~~ Division.
 - 5.01.9.2 An Applicant who submits the criminal records check based on an incorrect reason shall be required to resubmit the background check, at his or her own expense, under the correct reason.
- 5.02 Any information received by the Division from the Division of Arkansas State Police, the Division of Human Services, or the Federal Bureau of Investigation pursuant to these Rules shall not be available for examination except by the affected applicant or his or her duly authorized representative, and no record, file, or document shall be removed from the custody of the Division of Education.
 - 5.02.1 Any information made available to the affected applicant for licensure or the person whose license is subject to revocation

shall be information pertaining to that applicant only.

5.02.2 Rights of privilege and confidentiality established under this section shall not extend to any document created for purposes other than this background check.

~~5.02.3 The Department may disclose to an educational entity only whether the Applicant is eligible for employment or licensure.~~

5.02.3 Within thirty (30) days of receiving the criminal records background check from the Identification Bureau of the Arkansas State Police and the Division of Human Services, the Division of Elementary and Secondary Education shall inform the board of directors of an educational entity by mail only whether the affected applicant is eligible for employment. The Division will only send written notice when an employee is not eligible for employment. Districts can check the employability status of any employee online at the Arkansas Educator Licensure System website found at <http://adeaels.arkansas.gov/AelsWeb/Search.aspx>

5.03 New or existing employees of an educational entity who have a contract with or work for more than one (1) school district in one (1) school year shall be required to have only one (1) criminal records check and one (1) Child Maltreatment Central Registry check to satisfy the requirements of all employing school districts for that year.

5.04 Participation in state and federal rap back programs:

The following shall apply when the ~~Department~~ Division receives approval from the Arkansas State Police, the Federal Bureau of Investigation or Arkansas Crime Information Center, as applicable, for the ~~Department~~ Division to participate in state and federal rap back programs.

5.04.1 The ~~Department~~ Division may subscribe to the state rap back program an Applicant who has consented to participation in the state rap back program.

5.04.2 Upon the submission of a legible set of fingerprints, the ~~Department~~ Division may subscribe to the national rap back program an Applicant who has consented to participation in the national rap back program.

5.04.2.1 For the duration of the subscription, the Applicant is not required to provide fingerprints, but will submit and pay for the criminal records check and the Child

Maltreatment Central Registry check.

- 5.04.3 An Applicant may withdraw his or her consent to participation in the state or federal rap back program, and will thereafter be removed from participation in the rap back program. Once the Applicant is no longer subscribed in the rap back program, he or she shall provide fingerprints as required under these rules.

Source: Ark. Code Ann. §§ 6-17-410, 6-17-411, 6-17-414, and 6-17-417 as amended by Act 746 of 2017.

6.00 REPORTING REQUIREMENTS FOR SUPERINTENDENTS, DIRECTORS OF EDUCATIONAL ENTITIES, AND THIRD PARTY VENDORS

- 6.01 The superintendent or director of an educational entity, or a third party vendor, shall report in writing by certified mail to the ~~Department's~~ Division's Office of Legal Services the name of any employee of the educational entity or employee of a third party vendor whose employment is covered by these rules, whether currently employed or previously employed at any time during the two (2) preceding school years, who:
 - 6.01.1 Has pled guilty or nolo contendere, or has been found guilty, of any offense listed in Ark. Code Ann. §§ 6-17-410(c) or 6-17-414(b);
 - 6.01.2 Holds a teaching or similar license obtained by fraudulent means;
 - 6.01.3 Has had a teaching or similar license revoked in another state;
 - 6.01.4 Has intentionally compromised the validity or security of any student test or testing program administered or required by the ~~Department~~ Division;
 - 6.01.5 Has knowingly submitted falsified information or failed to submit information requested or required by law to the ~~Department~~ Division, the State Board, or the Division of Legislative Audit; or
 - 6.01.6 Has a true report in the Child Maltreatment Central Registry.
- 6.02 The superintendent or director of an educational entity, or a third party vendor, shall report in writing by certified mail to the ~~Department's~~ Division's Office of Legal Services the name of any Fiscal Officer of the educational entity, whether currently employed or previously employed at any time during the two (2) preceding school years, who has pled guilty or

nolo contendere to, or has been found guilty of, a fraudulent act.

- 6.03 Third party vendor reporting under this section is intended only for classified employee positions.
- 6.04 Failure of a superintendent or director of an educational entity to report a violation by certified mail within five (5) business days of knowledge as listed in Section 6.01 may result in sanctions imposed by the State Board, including but not limited to loss of accreditation.

Source: Ark. Code Ann. §§ 6-17-410 and 6-17-414.

7.00 FISCAL OFFICERS

- 7.01 In addition to the requirements of Section 4.00, an educational entity shall not employ as a Fiscal Officer any individual who has pled guilty or nolo contendere to, or has been found guilty of, a fraudulent act.
- 7.02 A currently-employed Fiscal Officer of an educational entity who has pled guilty or nolo contendere to, or has been found guilty of, a fraudulent act shall be dismissed from employment with the educational entity.
 - 7.02.1 Within five (5) business days of knowledge of the plea or conviction, the educational entity shall serve written notice of termination on the Fiscal Officer in person or by certified mail. The notice shall advise the Fiscal Officer of his or her right to a hearing before the State Board.
 - 7.02.2 The Fiscal Officer may, within thirty (30) calendar days of service of the written notice of termination, request a hearing before the State Board by sending a written request via certified mail to the ~~Department's~~ Division's Office of Legal Services.
 - 7.02.3 If the Fiscal Officer does not timely request a hearing before the State Board, termination shall become effective thirty (30) calendar days after the date of service of the written notice of termination.
 - 7.02.4 Termination of employment pursuant to this subsection shall not be subject to the requirements of the Teacher Fair Dismissal Act, Ark. Code Ann. § 6-17-1501 et seq. or the Public School Employee Fair Hearing Act, Ark. Code Ann. § 6-17-1701 et seq.
- 7.03 Circumstances for which a waiver may be granted shall include without limitation the following:

- 7.03.1 The age of the Fiscal Officer at the time the criminal act occurred;
- 7.03.2 The length of time since the conviction;
- 7.03.3 Whether the Fiscal Officer has pled guilty or nolo contendere to, or has been found guilty of, any other criminal violations since the original conviction;
- 7.03.4 Whether the original conviction was expunged or pardoned; and
- 7.03.5 Any other relevant facts.
- 7.04 The hearing shall follow the procedures set forth in Section 8.00 of these Rules.
- 7.05 After making its decision, the State Board shall reduce its decision to writing and shall mail copies of the decision to the Fiscal Officer or Applicant and the superintendent or director of the educational entity that issued the notice of termination.

Source: Ark. Code Ann. § 6-17-421.

8.00 STATE BOARD HEARING PROCEDURES

- 8.01 Each party shall exchange exhibits and witness lists not less than ten (10) calendar days before the scheduled hearing date, unless both parties agree to a shorter period of time.
- 8.02 Requests for subpoenas must be received in the Division's Office of Legal Counsel not less than ten (10) calendar days before the hearing date.
- 8.03 Each party will have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the representative of the Division ~~Department of Education~~. The Chairperson of the State Board may, only for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.
- 8.04 Each party will be provided fifteen (15) minutes to present their cases, beginning with the representative of the Division ~~Department of Education~~. The Chairperson of the State Board may, only for good cause shown and upon the request of either party, allow either party additional time to present their cases.

- 8.05 Every witness giving oral testimony must be sworn under oath by the Chair of the State Board and shall be subject to direct examination, cross examination, and questioning by the State Board.
- 8.06 For the purposes of the record, documents offered during the hearing by the Division ~~Department of Education~~ shall be clearly marked “~~ADE~~” “DESE” and numbered in sequential, numeric order (for example: ~~ADE-1~~ DESE-1).
- 8.07 For the purposes of the record, documents offered during the hearing by the appealing public school district, open-enrollment public charter school, Applicant, or licensee shall be clearly marked “Educator” and numbered in sequential, numeric order (for example: Educator-1).
- 8.08 The Division of Education shall have the burden of proving, by a preponderance of the evidence, that cause for the proposed licensure action exists, and that the recommended disposition from the ~~Department~~ Division be adopted.
- 8.09 While the scope of each party’s presentation ultimately lies within the State Board Chairperson’s discretion, case presentation should be arranged in such a way as to avoid redundant testimony.
- 8.10 After both parties have presented their cases, the State Board may allow each party to present limited rebuttal testimony.
- 8.11 Each party will be given five (5) minutes to present a closing argument, ending with the Division ~~Department of Education~~.
- 8.12 After making its decision, the State Board shall reduce its decision to writing and shall mail copies of the decision to each party, each party’s attorney, and the superintendent or director of any interested public school district or open- enrollment public charter school.
- 8.13 The State Board’s written decision shall constitute the final agency action for purposes of judicial review pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq.

State of Arkansas

92nd General Assembly

Regular Session, 2019

A Bill

HOUSE BILL 1544

By: Representative S. Meeks

By: Senator J. Sturch

For An Act To Be Entitled

AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE
GOVERNING BACKGROUND CHECKS FOR LICENSED AND
CLASSIFIED SCHOOL PERSONNEL; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND LAWS GOVERNING BACKGROUND CHECKS
FOR LICENSED AND CLASSIFIED SCHOOL
PERSONNEL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 6-17-410(b)(2)(B), concerning an expunged
or pardoned conviction of licensed personnel, is amended to read as follows:

(B) ~~An~~ A sealed, expunged, or pardoned conviction shall
not disqualify a person under this section if the conviction ~~is~~

~~(i) Ten (10) or more years old; and~~
~~(ii) Does~~ does not involve the physical or sexual
injury, mistreatment, or abuse of another.

SECTION 2. Arkansas Code § 6-17-410(c), concerning the prohibition on
the State Board of Education against issuing a first-time license or renewal
of a license upon notification of certain reports in a background check, is
amended to read as follows:

(c) The state board shall not issue a first-time license ~~nor~~ or renew
an existing license and shall revoke ~~any~~ an existing license not up for
renewal of ~~any~~ a person who has a true report in the Child Maltreatment



Central Registry or who has pled guilty or nolo contendere to or has been found guilty of any of the following offenses by any a court in the State of Arkansas or of any similar offense by a court in another state or ~~of any similar offense~~ by a federal court:

- (1) Capital murder as prohibited in § 5-10-101;
- (2) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree as prohibited in § 5-10-103;
- (3) Manslaughter as prohibited in § 5-10-104;
- (4) Battery in the first degree as prohibited in § 5-13-201 and battery in the second degree as prohibited in § 5-13-202;
- (5) Aggravated assault as prohibited in § 5-13-204, and assault in the first degree as prohibited by § 5-13-205;
- (6) Terroristic threatening in the first degree as prohibited in § 5-13-301;
- (7) Kidnapping as prohibited in § 5-11-102;
- (8) Rape as prohibited in § 5-14-103;
- (9) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 – 5-14-127;
- (10) Incest as prohibited in § 5-26-202;
- (11) ~~Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, employing or consenting to the use of a child in a sexual performance, or producing, directing, or promoting a sexual performance by a child as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403 A~~ violation of the Arkansas Protection of Children Against Exploitation Act of 1979, § 5-27-301 et seq., or the use of a child in a sexual performance as prohibited by §§ 5-27-402 and 5-27-403;
- (12) Distribution to minors as prohibited in § 5-64-406;
- (13) Any felony in violation of the Uniform Controlled Substances Act, § 5-64-101 et seq.;
- (14) Sexual indecency with a child as prohibited in § 5-14-110;
- (15) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205, or endangering the welfare of a minor in the second degree as prohibited by § 5-27-206;
- ~~(16) Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child as prohibited by § 5-27-304;~~

~~(17)~~(16) False imprisonment in the first degree as prohibited in § 5-11-103;

~~(18)~~(17) Permanent detention or restraint as prohibited in § 5-11-106;

~~(19)~~(18) Permitting abuse of a child as prohibited in § 5-27-221(a);

~~(20)~~(19) Negligent homicide as prohibited by § 5-10-105(a);

~~(21)~~ Assault in the first degree as prohibited by § 5-13-205;

~~(22)~~(20) Coercion as prohibited by § 5-13-208;

~~(23)~~(21) Public sexual indecency as prohibited by § 5-14-111;

~~(24)~~(22) Indecent exposure as prohibited by § 5-14-112;

~~(25)~~ Endangering the welfare of a minor in the second degree as prohibited by § 5-27-206;

~~(26)~~(23) Criminal attempt, criminal solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection;

~~(27)~~(24) Computer child pornography as prohibited in § 5-27-603;

~~(28)~~(25) Computer exploitation of a child in the first degree as prohibited in § 5-27-605;

~~(29)~~(26) Felony theft as prohibited in §§ 5-36-103 – 5-36-106 and 5-36-202;

~~(30)~~(27) Robbery as prohibited by §§ 5-12-102 and 5-12-103;

~~(31)~~(28) Breaking or entering as prohibited by § 5-39-202;

~~(32)~~(29) Burglary as prohibited by § 5-39-201 and aggravated residential burglary as prohibited by § 5-39-204;

~~(33)~~(30) Forgery as prohibited by § 5-37-201;

~~(34)~~(31) Video voyeurism as prohibited by § 5-16-101, and voyeurism as prohibited under § 5-16-102;

~~(35)~~(32) Domestic battering in the first degree as prohibited by § 5-26-303;

~~(36)~~(33) Domestic battering in the second degree as prohibited by § 5-26-304;

~~(37)~~(34) Felony violation of an order of protection as prohibited by § 5-53-134;

~~(38)~~(35) Prostitution as prohibited by § 5-70-102;

~~(39)~~(36) Sexual solicitation as prohibited by § 5-70-103;

1 ~~(40)~~(37) Promoting prostitution in the first degree as
 2 prohibited by § 5-70-104;
 3 ~~(41)~~(38) Promoting prostitution in the second degree as
 4 prohibited by § 5-70-105;
 5 ~~(42)~~(39) Stalking as prohibited by § 5-71-229;
 6 ~~(43)~~(40) Failure to notify by a mandated reporter in the first
 7 degree as prohibited by § 12-18-201;
 8 ~~(44)~~(41) Any felony not listed in this subsection and involving
 9 physical or sexual injury, mistreatment, or abuse against another person;
 10 ~~(45)~~(42) Aggravated assault upon a law enforcement officer or an
 11 employee of a correctional facility, § 5-13-211, if a Class Y felony;
 12 ~~(46)~~(43) Sexual extortion, § 5-14-113; and
 13 ~~(47)~~(44) Failure to comply with the registration and reporting
 14 requirements of § 12-12-904-;
 15 (45) Trafficking of a person as prohibited by § 5-18-103;
 16 (46) Patronizing a victim of human trafficking as prohibited by
 17 § 5-18-104;
 18 (47) Aggravated assault on a family member or household member
 19 as prohibited member as prohibited by § 5-26-306; and
 20 (48) Computer crimes against a minor as prohibited by §§ 5-27-
 21 601 et seq.
 22

23 SECTION 3. Arkansas Code § 6-17-410(d)(1)(A)(v), concerning the
 24 definition of "for cause" with respect to disciplinary action taken by the
 25 State Board of Education against a teacher's license, is amended to read as
 26 follows:

27 (v) Having a sealed, an expunged, or a pardoned
 28 conviction for any ~~sexual or physical abuse offense committed against a child~~
 29 ~~or any offense in subsection (c) of this section~~ that involves the physical
 30 or sexual injury, mistreatment, or abuse of another person;
 31

32 SECTION 4. Arkansas Code § 6-17-410(d)(1)(A), concerning the
 33 definition of "for cause" with respect to disciplinary action taken by the
 34 State Board of Education against a teacher's license, is amended to add
 35 additional subdivisions to read as follows:

36 (xi) Violating any other provision of state law for

1 which the penalty is the suspension or revocation of an teacher's license; or
 2 (xii) Undergoing an involuntary commitment for a
 3 physical or mental illness that endangers the health, safety, welfare, or
 4 education of a student, as determined by a licensed health professional,
 5 until the person provides documentation from a licensed health professional
 6 of treatment of the physical or mental illness and the person's current
 7 fitness; and

8
 9 SECTION 5. Arkansas Code § 6-17-414(a)(2)(B), concerning an expunged
 10 or pardoned conviction of nonlicensed school personnel, is amended to read as
 11 follows:

12 (B) ~~An~~ A sealed, expunged, or pardoned conviction shall
 13 not disqualify a person under this section if the conviction is:
 14 ~~(i) Ten (10) or more years old; and~~
 15 ~~(ii) Does~~ does not involve the physical or sexual
 16 injury, mistreatment, or abuse of another.

17
 18 SECTION 6. Arkansas Code § 6-17-414(b), concerning background checks
 19 for nonlicensed personnel, is amended to read as follows:

20 (b) ~~No~~ A person, including without limitation nonlicensed persons who
 21 provide services as a substitute teacher, shall not be eligible for
 22 employment, whether initial employment, reemployment, or continued
 23 employment, by an educational entity in a nonlicensed staff position if ~~that~~
 24 the person has a true report in the Child Maltreatment Central Registry or
 25 has pled guilty or nolo contendere to or has been found guilty of any of the
 26 following offenses by ~~any~~ a court in the State of Arkansas or of any similar
 27 offense by a court in another state or ~~of any similar offense~~ by a federal
 28 court:

- 29 (1) Capital murder as prohibited in § 5-10-101;
 30 (2) Murder in the first degree as prohibited in § 5-10-102 and
 31 murder in the second degree as prohibited in § 5-10-103;
 32 (3) Manslaughter as prohibited in § 5-10-104;
 33 (4) Battery in the first degree as prohibited in § 5-13-201 and
 34 battery in the second degree as prohibited in § 5-13-202;
 35 (5) Aggravated assault as prohibited in § 5-13-204, and assault
 36 in the first degree as prohibited by § 5-13-205;

(6) Terroristic threatening in the first degree as prohibited in § 5-13-301;

(7) Kidnapping as prohibited in § 5-11-102;

(8) Rape as prohibited in § 5-14-103;

(9) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 – 5-14-127;

(10) Incest as prohibited in § 5-26-202;

~~(11) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, employing or consenting to the use of a child in a sexual performance, or producing, directing, or promoting a sexual performance by a child as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403~~ A violation of the Arkansas Protection of Children Against Exploitation Act of 1979, § 5-27-301 et seq., or the use of a child in a sexual performance as prohibited by §§ 5-27-402 and 5-27-403;

(12) Distribution to minors as prohibited in § 5-64-406;

(13) Any felony in violation of the Uniform Controlled Substances Act, § 5-64-101 et seq.;

(14) Criminal attempt, criminal solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection;

(15) Sexual indecency with a child as prohibited in § 5-14-110;

(16) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205, or endangering the welfare of a minor in the second degree as prohibited by § 5-27-206;

~~(17) Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child as prohibited by § 5-27-304;~~

~~(18)~~ (17) False imprisonment in the first degree as prohibited in § 5-11-103;

~~(19)~~ (18) Permanent detention or restraint as prohibited in § 5-11-106;

~~(20)~~ (19) Permitting abuse of a child as prohibited in § 5-27-221(a);

~~(21)~~ (20) Negligent homicide as prohibited by § 5-10-105(a);

~~(22) Assault in the first degree as prohibited by § 5-13-205;~~

~~(23)~~ (21) Coercion as prohibited by § 5-13-208;

~~(24)~~(22) Public sexual indecency as prohibited by § 5-14-111;
~~(25)~~(23) Indecent exposure as prohibited by § 5-14-112;
~~(26)~~ ~~Endangering the welfare of a minor in the second degree as prohibited by § 5-27-206;~~
~~(27)~~(24) Computer child pornography as prohibited in § 5-27-603;
~~(28)~~(25) Computer exploitation of a child in the first degree as prohibited in § 5-27-605;
~~(29)~~(26) Felony theft as prohibited in §§ 5-36-103 – 5-36-106 and 5-36-202;
~~(30)~~(27) Robbery as prohibited by §§ 5-12-102 and 5-12-103;
~~(31)~~(28) Breaking or entering as prohibited by § 5-39-202;
~~(32)~~(29) Burglary as prohibited by § 5-39-201 and aggravated residential burglary as prohibited by § 5-39-204;
~~(33)~~(30) Forgery as prohibited by § 5-37-201;
~~(34)~~(31) Video voyeurism as prohibited by § 5-16-101, and voyeurism as prohibited under § 5-16-102;
~~(35)~~(32) Domestic battering in the first degree as prohibited by § 5-26-303;
~~(36)~~(33) Domestic battering in the second degree as prohibited by § 5-26-304;
~~(37)~~(34) Felony violation of an order of protection as prohibited by § 5-53-134;
~~(38)~~(35) Prostitution as prohibited by § 5-70-102;
~~(39)~~(36) Sexual solicitation as prohibited by § 5-70-103;
~~(40)~~(37) Promoting prostitution in the first degree as prohibited by § 5-70-104;
~~(41)~~(38) Promoting prostitution in the second degree as prohibited by § 5-70-105;
~~(42)~~(39) Stalking as prohibited by § 5-71-229;
~~(43)~~(40) Failure to notify by a mandated reporter in the first degree as prohibited by § 12-18-201;
~~(44)~~(41) Any felony not listed in this subsection and involving physical or sexual injury, mistreatment, or abuse against another person;
~~(45)~~(42) Aggravated assault upon a law enforcement officer or an employee of a correctional facility, § 5-13-211, if a Class Y felony;
~~(46)~~(43) Sexual extortion, § 5-14-113; ~~and~~

1 ~~(47)~~(44) Failure to comply with the registration and reporting
2 requirements of § 12-12-904-~~i~~

3 (45) Trafficking of a person as prohibited by § 5-18-103;

4 (46) Patronizing a victim of human trafficking as prohibited by
5 § 5-18-104;

6 (47) Aggravated assault on a family member or household member
7 as prohibited member as prohibited by § 5-26-306; and

8 (48) Computer crimes against a minor as prohibited by §§ 5-27-
9 601 et seq.

10
11 SECTION 7. Arkansas Code § 6-17-414(c), concerning provisional
12 employment of nonlicensed personnel pending receipt of eligibility, is
13 amended to read as follows:

14 (c) However, the board of directors of an educational entity is
15 authorized to offer provisional employment to an applicant pending ~~receipt~~
16 notification of eligibility information from the Department of Education
17 department, which may be provided in an electronic format.

18
19 SECTION 8. Arkansas Code § 6-17-414(e)(5) and (6), concerning the
20 determination that an applicant for employment in a nonlicensed staff
21 position is ineligible, are amended to read as follows:

22 (5) Knowingly falsifies or directs another to falsify any grade
23 given to a student, whether the grade was given for an individual assignment
24 or examination or at the conclusion of a regular grading period; ~~or~~

25 (6) Has a true report in the Child Maltreatment Central
26 Registry-~~i~~; or

27 (7) Has an involuntary commitment for a physical or mental
28 illness that endangers the health, safety, welfare, or education of a
29 student, as determined by a licensed health professional, until the person
30 provides documentation from a licensed health professional of treatment of
31 the physical or mental illness and the person's current fitness.

32
33 SECTION 9. Arkansas Code § 6-17-414 is amended to add an additional
34 subsection to read as follows:

35 (i) The state board shall adopt the necessary rules to implement this
36 section.

APPROVED: 3/20/19

1 State of Arkansas

2 92nd General Assembly

3 Regular Session, 2019

A Bill

SENATE BILL 382

5 By: Senator B. Davis

6 By: Representative Slape

For An Act To Be Entitled

9 AN ACT CONCERNING RULES FOR TEACHER LICENSURE; TO
10 ALLOW FOR THE REINSTATEMENT OF A REVOKED TEACHING
11 LICENSE UNDER CERTAIN CONDITIONS; AND FOR OTHER
12 PURPOSES.

Subtitle

16 TO ALLOW FOR THE REINSTATEMENT OF A
17 REVOKED TEACHING LICENSE UNDER CERTAIN
18 CONDITIONS.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23 SECTION 1. Arkansas Code § 6-17-402(j), concerning State Board of
24 Education rules for teacher licensure, is amended to read as follows:

25 (j) Rules of the state board shall identify the following as core
26 licensure content areas:

- 27 (1) ~~Early Childhood~~ Elementary education (K-6);
- 28 (2) English language arts;
- 29 (3) Mathematics;
- 30 (4) Science;
- 31 (5) Social Studies;
- 32 (6) Art;
- 33 (7) Music; and
- 34 (8) Foreign Language.

35 (k)(1) The state board may promulgate rules to reinstate a revoked
36 teaching license.



1 (2) Rules promulgated under subdivision (k)(1) of this section
2 shall include without limitation the following:

3 (A) Information and requirements regarding an application
4 for reinstatement of a revoked teaching license; and

5 (B) The use of evidence by the state board to determine
6 whether the applicant for reinstatement of a revoked teaching license:

7 (i) Is rehabilitated, recovered, or in recovery, as
8 applicable;

9 (ii) Has made restitution, as applicable;

10 (iii) Is currently fit to return to an educational
11 environment appropriate to the licensure level of the applicant; and

12 (iv) Does not pose a threat to the health, safety,
13 and welfare of public school students and public school employees.

14 (3) An individual whose teaching license was revoked following
15 an ethics complaint under § 6-17-428 shall release to the state board any
16 confidential information regarding the ethics complaint made against the
17 individual upon the individual's application for reinstatement of his or her
18 revoked teaching license.

19 (4) Except as provided under subdivision (k)(6) of this section,
20 an applicant for reinstatement of a revoked teaching license shall not apply
21 for reinstatement of his or her revoked teaching license until:

22 (A) Ten (10) years after the date of revocation of the
23 teaching license for:

24 (i) A felony disqualifying offense under § 6-17-410;
25 or

26 (ii) An ethics violation under § 6-17-428; or

27 (B) Five (5) years after the date of revocation for any
28 other reason not identified under subdivision (k)(4)(A).

29 (5) If an applicant for reinstatement of a revoked teaching
30 license has a true report in the Child Maltreatment Central Registry, the
31 state board may reinstate the applicant's revoked teaching license with or
32 without a hearing if the applicant provides evidence from the Department of
33 Human Services that the department has removed the applicant's name from the
34 Child Maltreatment Central Registry.

35 (6) The state board shall not reinstate a revoked teaching
36 license when the reason for the revocation concerned the:

- 1 (A) Physical or sexual injury of another person;
2 (B) Physical or sexual abuse of another person;
3 (C) Physical mistreatment of another person resulting in
4 death; or
5 (D) Sexual mistreatment of another person.

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8 **APPROVED: 4/1/19**
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State of Arkansas

As Engrossed: H3/29/19

92nd General Assembly

A Bill

Regular Session, 2019

HOUSE BILL 1700

By: Representative Wooten

For An Act To Be Entitled

AN ACT CONCERNING BACKGROUND CHECKS OF APPLICANTS OF
EDUCATIONAL ENTITIES; TO REQUIRE THE DEPARTMENT OF
EDUCATION TO INFORM AN EDUCATIONAL ENTITY TO WHICH AN
INDIVIDUAL IS APPLYING WHETHER THE INDIVIDUAL IS
ELIGIBLE FOR EMPLOYMENT BASED ON THE RESULTS OF THE
INDIVIDUAL'S CRIMINAL RECORDS BACKGROUND CHECKS AND
CHILD MALTREATMENT CENTRAL REGISTRY CHECK; AND FOR
OTHER PURPOSES.

Subtitle

TO REQUIRE THE DEPARTMENT OF EDUCATION TO
INFORM AN EDUCATIONAL ENTITY TO WHICH AN
INDIVIDUAL IS APPLYING WHETHER THE
INDIVIDUAL IS ELIGIBLE FOR EMPLOYMENT
BASED ON THE RESULTS OF THE INDIVIDUAL'S
BACKGROUND CHECKS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 6-17-411(a)(4) and (5), concerning
the reporting of the results of an applicant's criminal records background
check and Child Maltreatment Central Registry check, are amended to read as
follows:

(4)(A) Any information received by the Department of Education
from the Identification Bureau of the Department of Arkansas State Police or
the Department of Human Services ~~pursuant to~~ under this section shall not be
available for examination except by the affected applicant for employment or



1 his or her duly authorized representative, and no record, file, or document
2 shall be removed from the custody of the Department of Education

3 (B) Any information made available to the affected applicant
4 for employment shall be information pertaining to that applicant only.

5 (C) Rights of privilege and confidentiality established under
6 this section shall not extend to any document created for purposes other than
7 this the criminal records background check and the Child Maltreatment Central
8 Registry check.

9 ~~(5)(A) The Department of Education shall promptly inform the~~
10 ~~board of directors of the educational entity whether or not the affected~~
11 ~~applicant is eligible for employment as provided by subsection (b) of this~~
12 ~~section~~ Upon completion of the statewide and nationwide criminal records
13 background checks and the Child Maltreatment Central Registry check, the
14 Identification Bureau of the Department of Arkansas State Police or the
15 Department of Human Services shall forward all releasable information to the
16 Department of Education.

17 (B) Within thirty (30) days of receiving all releasable
18 information that has been forwarded by the Identification Bureau of the
19 Department of Arkansas State Police and the Department of Human Services
20 under subdivision (a)(5)(A) of this section, the Department of Education
21 shall inform the board of directors of the educational entity whether or not
22 the affected applicant is eligible for employment as provided under
23 subsection (b) of this section.

24
25 SECTION 2. Arkansas Code § 6-17-415(b), concerning the criminal
26 records check and Child Maltreatment Central Registry check of an existing
27 nonlicensed employee, is amended to read as follows:

28 (b)(1) Any school district ~~which that,~~ by a vote of its local school
29 district board of directors, requires criminal records background checks and
30 Child Maltreatment Central Registry checks for existing nonlicensed employees
31 shall pay the full cost of the criminal records background checks and Child
32 Maltreatment Central Registry checks.

33 (2)(A) Upon completion of the statewide and nationwide criminal
34 records background checks and the Child Maltreatment Central Registry check,
35 the Identification Bureau of the Department of Arkansas State Police or the
36 Department of Human Services shall forward all releasable information to the

1 Department of Education.

2 (B) Within thirty (30) days of receiving all releasable
3 information that has been forwarded by the Identification Bureau of the
4 Department of Arkansas State Police and the Department of Human Services
5 under subdivision (b)(2)(A) of this section, the Department of Education
6 shall inform the board of directors of the educational entity whether or not
7 the affected applicant is eligible for employment as provided under § 6-17-
8 414.

9 (3) A public school district under subdivision (b)(1) of this
10 section shall require that an existing nonlicensed employee complete a
11 criminal records background check and Child Maltreatment Central Registry
12 check at least one (1) time every five (5) years.

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14 /s/Wooten

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17 APPROVED: 4/16/19
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