

DEPARTMENT OF EDUCATION

SUBJECT: Repeal of Arkansas Department of Education Rules Governing Waivers for Substitute Teachers

DESCRIPTION: This is the repeal of the Department of Education Rules Governing Waivers for Substitute Teachers. The substance of this rule is being incorporated into the new proposed Rules Governing Educator Licensure, and thus, this individual rule is no longer necessary.

PUBLIC COMMENT: A public hearing was held on September 6, 2012. The public comment period ended on September 17, 2012. No public comments were received.

The effective date of this rule is thirty (30) days after review and filing or December 15, 2012, whichever is later.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: Ark. Code Ann. § 6-15-1011 authorizes the State Board of Education to promulgate rules that are necessary for the implementation of the Arkansas Public Education Act of 1997 which includes the qualifications of substitute teachers. See also Ark. Code Ann. §§ 6-15-1004 and 6-11-105.



ARKANSAS DEPARTMENT OF EDUCATION

Dr. Tom W. Kimbrell
Commissioner

October 9, 2012

State Board
of Education

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Fayetteville

Vicki Saviers
Little Rock

Ms. Donna Davis
Rules Administrator
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, Arkansas 72201

Re: Final Adoption of Repeals

Dear Ms. Davis:

Please find attached an original and one (1) copy of the repeal of the Arkansas Department of Education's Rules Governing Waivers for Substitute Teachers. On August 13, 2012, the Arkansas State Board of Education released the proposed repeal for public comment. On October 8, 2012, the State Board gave final approval to the proposed repeal.

Please place this repeal on the agenda for the next meeting of the ALC Rules & Regulations Subcommittee. No changes have been made to the proposed repeal, summary, or fiscal impact statement since it was released for public comment. No comments were received.

Thank you for your attention to this matter. Please do not hesitate to contact me at (501) 682-4227 should you have any questions or require additional information.

Respectfully,

J. Mark White
Staff Attorney

Enclosures

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

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ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING WAIVERS FOR SUBSTITUTE TEACHERS
-September 2007

~~1.00 — REGULATORY AUTHORITY~~

~~1.01 — These rules shall be known as the Arkansas Department of Education (ADE) Rules Governing Waivers for Substitute Teachers.~~

~~1.02 — These rules are enacted pursuant to the State Board of Education's authority under Ark. Code Ann. §§ 6-11-105, 6-15-1004, 6-17-402, 25-15-201 et seq. and Acts 46 and 57 of 2007.~~

~~2.00 — PURPOSE~~

~~2.01 — The purposes of these rules are to improve instruction by ensuring that no class of students receives instructions from a substitute teacher(s) for more than thirty (30) consecutive school days in the same class during the year unless that teacher has a bachelor's degree awarded by an accredited college or university or has been licensed to teach by the State of Arkansas, and to establish the procedures for requesting from the State Board of Education, or its designee, a waiver for substitute teachers.~~

~~3.00 — DEFINITIONS For the purpose of these Rules, the following definitions shall apply:~~

~~3.01 — **Department** means the Arkansas Department of Education.~~

~~3.02 — **Licensed teacher** means any school district employee who is licensed by the ADE Professional Licensure Office.~~

~~3.03 — **Substitute teacher** is defined as the person who takes the place of the contracted licensed teacher on a short term or long term basis. Any person serving as a substitute teacher shall be a high school graduate or hold a Graduate Equivalent Degree (G.E.D.).~~

~~3.04 — **Undue Hardship Situations** means those events which would cause the school district to believe it could not attain compliance with these rules and thus apply to the Arkansas State Board of Education for a waiver.~~

~~4.00 — EMPLOYMENT OF SUBSTITUTE TEACHERS~~

~~4.01 — Since it is sometimes necessary to utilize the services of substitute personnel, school districts should select competent individuals who can be entrusted with the instructional responsibilities of the school. As such~~

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~~care should be given to the recruitment, selection and utilization of those who will be used as substitutes as is given to licensed personnel.~~

~~4.02 — A person serving as a substitute teacher shall be a high school graduate or hold a Graduate Equivalent Degree (G.E.D.).~~

~~4.03 — Substitute teachers assigned to the same class for more than thirty (30) consecutive days during a school year must hold a bachelor's degree awarded by an accredited college or university or be licensed to teach by the State of Arkansas.~~

~~4.03.1 — The school district shall request a waiver to employ a substitute teacher(s) whenever a class of students will be receiving instructions from a substitute teacher or teachers for longer than thirty (30) consecutive days unless the substitute is fully licensed in Arkansas for areas in which the substitute is employed.~~

~~4.03.1.1 — School districts shall not avoid a waiver request by terminating the services of a substitute teacher(s) prior to the thirty first (31st) day of instruction.~~

~~4.04 — A substitute teacher or teachers possessing a bachelor's degree shall continue to teach the class from at least the thirty first (31st) consecutive day after the regular teacher is absent from the class until the return of the regular teacher to that class.~~

~~4.05 — This provision shall not apply to non-degreed vocational technical teachers.~~

~~5.00 — APPROVAL PROCEDURES AND REPORTING OF WAIVERS~~

~~5.01 — Superintendents may apply for a waiver from the Arkansas State Board of Education if the requirements set fourth in Section 4.00 of these rules impose an undue hardship on a school or district.~~

~~5.02 — A written application for waivers shall be submitted to the Department's Assistant Commissioner for Human Resources/Licensure, as soon as an undue hardship is determined by the superintendent. The application letter shall include:~~

~~5.02.1 — A justification of need for the waiver,~~

~~5.02.2 — Documentation that a currently licensed personnel and/or personnel with a bachelor's degree is not available to be employed,~~

~~5.02.3 — Instructional area that will be assigned to the substitute teacher, and~~

~~5.02.4 — The length of time the substitute will be employed.~~

- ~~5.03~~ ~~Waivers for use of a substitute teacher(s) for longer than thirty (30) days may be granted for only one semester but may be renewed for a second semester. Such waivers are to be submitted immediately once the substitute(s) have been in the classroom for thirty one (31) days.~~
- ~~5.04~~ ~~Applications for waivers shall be reviewed by the Department and presented to the Arkansas State Board of Education for its decision.~~
- ~~5.05~~ ~~The final decision regarding the granting of the waiver will rest with the Arkansas State Board of Education.~~
- ~~5.06~~ ~~Any school district granted a waiver will be reported in the Department's annual school district report card.~~

Comment Summary

No Comments Received.

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DEPARTMENT OF EDUCATION
FISCAL IMPACT STATEMENT OF PROPOSED REGULATION
(In compliance with Ark. Code Ann. §§ 10-3-309 and 25-15-204)

Regulation Title: Repeal of Arkansas Department of Education Rules Governing Waivers for Substitute Teachers

Summary Description of Regulatory Proposal: Repeal of outdated, superseded rules

Cite Statutory Authority for this Regulatory Proposal:

- I. Fiscal Impact on the Department: (include whether impacts are non-recurring or recurring) **None**
 - A. Resources Required - Personnel, equipment, office space.
 - B. Time Required for Implementation.
 - C. Procedural Changes.
 - D. Other.
- II. Fiscal Impact on Local School District or Others? (Include whether impacts are non-recurring or recurring) **None**
 - A. Resources Required - Personnel, equipment, office space.
 - B. Time Required for Implementation.
 - C. Procedural Changes.
 - D. Other.
- III. Additional Comments. **N/A**

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Prepared by: Mark White
Staff Attorney
August 16, 2012

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Education

DIVISION Division of Human Resources

PERSON COMPLETING THIS STATEMENT Mark White

TELEPHONE NO. (501) 682-4227 FAX NO. (501) 682-4549 EMAIL: Mark.White@Arkansas.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

Repeal of Arkansas Department of Education Rules Governing Waivers for Substitute Teachers

1. Does this proposed, amended, or repealed rule have a financial impact?

Yes _____ No X

2. Does this proposed, amended, or repealed rule affect small businesses?

Yes _____ No X

If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain. N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program. N/A

Current Fiscal Year

Next Fiscal Year

General Revenue _____

General Revenue _____

Federal Funds _____

Federal Funds _____

Cash Funds _____

Cash Funds _____

Special Revenue _____

Special Revenue _____

Other (Identify) _____

Other (Identify) _____

Total _____

Total _____

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ 0

\$ 0

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

Current Fiscal Year

Next Fiscal Year

\$ 0

\$ 0