

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

**REVISED: FOR SECOND PUBLIC COMMENT RELEASE AND  
EMERGENCY PROMULGATION**

DEPARTMENT/AGENCY Arkansas Department of Education  
DIVISION Educator Effectiveness and Licensure  
DIVISION DIRECTOR Jeremy Owoh  
CONTACT PERSON Lori Freno, General Counsel  
ADDRESS Four Capitol Mall, Little Rock, AR 72201  
PHONE NO. (501) 682-4234 FAX NO. None E-MAIL lori.freno@arkansas.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Lori Freno  
PRESENTER E-MAIL lori.freno@arkansas.gov

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201**

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Rules Governing Eligibility and Financial Incentives for  
National Board for Professional Teaching Standards Candidacy  
and Certification

1. What is the short title of this rule? and Certification
  2. What is the subject of the proposed rule? Eligibility and Incentives for National Board Teaching Standards Candidacy and Certification
  3. Is this rule required to comply with a federal statute, rule, or regulation? Yes  No   
If yes, please provide the federal rule, regulation, and/or statute citation. N/A
  4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?  
Yes  No   
Unknown, pending Executive Subcommittee  
If yes, what is the effective date of the emergency rule? Review
- When does the emergency rule expire? Unknown, pending Executive Subcommittee Review

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes  No

5. Is this a new rule? Yes  No   
If yes, please provide a brief summary explaining the regulation. \_\_\_\_\_

Does this repeal an existing rule? Yes  No   
If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. \_\_\_\_\_

Is this an amendment to an existing rule? Yes  No   
If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."** See attached summary.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. §§ 6-11-105, 6-17-412, 6-17-413, and 25-15-201 et seq., and Act 937 of 2017.

7. What is the purpose of this proposed rule? Why is it necessary? To incorporate provisions of Act 936 of 2017.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). <http://www.arkansased.gov/divisions/legal/rules>

9. Will a public hearing be held on this proposed rule? Yes  No   
If yes, please complete the following:

Date: March 19, 2018

Time: 11:00 a.m.

Arkansas Department of Education, Four  
Capitol Mall, Room 201A, Little Rock,

Place: AR 72201

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

March 27, 2018

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

Emergency promulgation: March 2018. Permanent promulgation: May 2018.

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. Attached

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). Attached

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. These rules will be of interest to teachers, school administrators, school district administrators, the representative groups for teachers and administrators, and education service cooperatives.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Education

**DIVISION** Educator Effectiveness and Licensure

**PERSON COMPLETING THIS STATEMENT** Lori Freno, General Counsel

**TELEPHONE** 501-682-4234      **FAX** None      **EMAIL:** lori.freno@arkansas.gov

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

**SHORT TITLE OF THIS RULE** Rules Governing Eligibility and Financial Incentives for National Board for Professional Teaching Standards Candidacy and Certification

- 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;  
N/A

(b) The reason for adoption of the more costly rule;  
N/A

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;  
N/A

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.  
N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

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

**Next Fiscal Year**

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

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

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue	Unknown (see explanation below)
Federal Funds	
Cash Funds	
Special Revenue	
Other (Identify)	
<b>Total</b>	<b>Unknown</b>

General Revenue	Unknown (see explanation below)
Federal Funds	
Cash Funds	
Special Revenue	
Other (Identify)	
<b>Total</b>	<b>Unknown</b>

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**

\$ Zero

\$ Zero

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**

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

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

Zero

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.

NOTE: It is difficult to assess the fiscal impact of this amendment because the bonuses have been restructured.

- Some National Board Certified Teachers (NBCTs) who are at the end of their 10 year (certification or recertification) will no longer receive their \$5,000 annual bonus
- Some NBCTs will receive a \$5,000 bonus through the end of their 10 years (although if they move to a high-poverty school in a high-poverty district or a high-poverty charter school, they may receive the \$10,000 bonus to the end of their 10 years).
- New NBCTs will come under the new structure for:
  1. \$2,500 for five years if they are in a school that is NOT a high-poverty school or high-poverty charter school;
  2. \$5,000 for five years if they are in a high-poverty school (that is not in a high-poverty district); or
  3. \$10,000 for ten years if they are in a high-poverty school in a high-poverty district or high-poverty charter school.



# Arkansas Department of Education

*Transforming Arkansas to lead the nation in student-focused education*

February 23, 2018

Johnny Key  
*Commissioner*

Via Email: [garritym@blr.arkansas.gov](mailto:garritym@blr.arkansas.gov)

State Board  
of Education

Ms. Marty Garrity, Director  
Bureau of Legislative Research

Dr. Jay Barth  
*Little Rock*  
Chair

**Re: Administrative Rules for Emergency Promulgation: ADE Rules Governing Eligibility and Financial Incentives for National Board for Professional Teaching Standards Candidacy and Certification**

Joe Black  
*Newport*  
Vice Chair

Dear Ms. Garrity:

Susan Chambers  
*Bella Vista*

The Arkansas Department of Education respectfully requests that your office place the subject proposed emergency rules on the agenda of the ALC Executive Subcommittee. The State Board of Education approved these rules for emergency promulgation earlier today. Included in this email is an updated BLR Questionnaire, as well as a Financial Impact Statement, summary of amendment, and both a markup and clean copy of the proposed emergency rules. ADE also will be releasing the permanent promulgation version of the rules for a second public comment period within the next few days.

Charisse Dean  
*Little Rock*

Dr. Fitz Hill  
*Little Rock*

Ouida Newton  
*Poyen*

Mireya Reith  
*Fayetteville*

R. Brett Williamson  
*El Dorado*

The emergency clause in the rules more fully explains the need for the emergency promulgation. In short, Act 937 of 2017 changed amounts and criteria for eligibility and payment of National Board Certified Teachers, providing incentives aimed at encouraging these teachers to seek employment in high poverty schools and school districts. The emergency arises in that school districts and educators need these rules in place to afford sufficient time to plan for the upcoming academic year, as educator employment contracts must be offered by May 1, 2018.

Diane Zook  
*Melbourne*

If you have any questions, please do not hesitate to call me at (501) 682-4234.

Respectfully submitted,

Lori Freno  
General Counsel  
Arkansas Department of Education

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Little Rock, AR  
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ArkansasEd.gov

*An Equal  
Opportunity  
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**Arkansas Department of Education**  
**Emergency Rules Governing Eligibility and Financial Incentives**  
**For National Board for Professional Teaching Standards**  
**Candidacy and Certification**  
~~September 2010~~  
**Emergency Rules Effective Date: March 8, 2018**

### 1.00 Regulatory Authority

- 1.1 These rules shall be known as the Arkansas Department of Education (Department) Rules Governing Eligibility and Financial Incentives for the National Board for Professional Teaching Standards Program Candidacy and Certification (NBPTS-Program).
- 1.2 These rules are enacted under the State Board of Education's ~~(State Board)~~ authority pursuant to Ark. Code Ann. §§6-11-105, 6-17-412, and 6-17-413.

### 2.00 Purpose

- 2.1 To improve student learning ~~by strengthening and strengthen teaching and to encourage~~ by encouraging teachers to participate in and complete NBPTS certification;
- 2.2 ~~by authorizing~~ To authorize the Department to ~~pay full tuition and~~ fund the full amount of the participation fee of the NBPTS certification;
- 2.3 To authorize the Department to fund incentive bonuses for NBCTs in Arkansas;
- 2.4 To outline the eligibility criteria and funding structure for the incentive bonuses to participants and by establishing eligibility requirements; and
- 2.5 To outline the establishment of a support program for NBPTS participants, and
- 2.6 ~~To establish the mechanism for the selection of teacher participants, as determined by the amount of funding available for the program.~~

### 3.00 Definitions

For the purposes of these rules, ~~the following terms shall mean:~~

- 3.1 “Department” means the Arkansas Department of Education;
- 3.1 ~~“Completion of the certification process” will be defined as officially being~~



~~recognized as a National Board Certified Teacher (NBCT) by the NBPTS.~~

3.2 **“National Board for Professional Teaching Standards”** ~~will be defined as an~~ means the independent board which reliably identifies and that certifies teachers who meet advanced standards and certifications by effectively enhancing student learning and demonstrating the high level of knowledge and skills, dispositions, and commitments reflected in the following five core propositions:

3.2.1 Teachers are committed to students and their learning.

3.2.2 Teachers know the subjects they teach and how to teach those subjects to students.

3.2.3 Teachers are responsible for managing and monitoring student learning.

3.2.4 Teachers think systematically about their practice and learn from experience.

3.2.5 Teachers are members of learning communities.

~~3.3 “A support program for candidates” is a comprehensive process of technical and financial assistance provided to program applicants to ensure successful program completion, as Ark. Code Ann. §6-17-413 allows.~~

3.3 **“The NBPTS Advisory Committee”** ~~(or “Advisory Committee”)~~ is a means the ten (10) member team of three (3) National Board Certified Teachers, three (3) National Board facilitators, and four (4) educational administration or business representatives, to include one Department staff member, ~~which will advise.~~ The Advisory Committee advises the Department on policy issues, assist in the support system, and select candidates based on relevant criteria when all candidates cannot be funded; such criteria to be established by the Advisory Committee in accordance with law and with final review and approval by the State Board.

3.4 **“Classroom teacher”** means a teacher who is required to hold a standard teaching license from the Department and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual’s contracted time, with that 70% allowed to include:

~~3.5.1 regularly scheduled instructional preparation time during the regular school day;~~

~~3.5.2 a maximum of one period per day service as an instructional department chair;~~

~~3.5.3 service as a master teacher in a charter school;~~

~~3.5.4 service as a mentor to a novice teacher;~~

3.4.1 Employment by an educational service cooperative when the teacher

provides direct student services for a collaborative of school districts in public school buildings and other instructional settings throughout the cooperative area; and

3.4.2 Instructional positions such as library/media specialist, school guidance counselor, literacy specialist, math specialist or others for whom NBPTS certificates specifically exist.

~~3.4.3 District curriculum administrators and program administrators are eligible for the payment of National Board fees and bonuses provided that they: (1) hold a standard teaching license from the Department; (2) are engaged directly in instruction in a classroom setting for more than seventy percent (70%) of their contracted time as set forth above; and (3) provide to the Department written certification that they fulfill the foregoing requirements in accordance with Section 8.01 of these Rules.~~

3.5 **“Classroom setting”** for purposes of candidacy means:

3.5.1 For the purpose of eligibility for NBPTS candidacy funding means full-time assignment to a setting in a specific Arkansas public school building or buildings in which a teacher works directly with a student or students; and

3.5.2 ~~for purposes of a starting or a yearly~~ For the purpose of eligibility for an incentive bonus means full-time assignment to a setting in a school building(s) or other instructional settings cited in §3-05-05 where a NBCT is directly involved in the instructional process by teaching children, by facilitating the instructional process through work with building teachers in classrooms, or by serving in the role of building administrator, or assistant building administrator.

3.6 **“High-poverty charter school”** means an Arkansas open-enrollment public charter school in which seventy percent (70%) or greater of the previous school year’s enrolled students are national school lunch students as defined in § 6-20-2303.

3.7 **“High-poverty district”** means an Arkansas public school district in which seventy percent (70%) or greater of the previous school year’s enrolled students are national school lunch students as defined in § 6-20-2303.

3.8 **“High-poverty school”** means an Arkansas public school in which seventy percent (70%) or greater of the previous school year’s enrolled students are national school lunch students as defined in § 6-20-2303.

3.9 ***“In the process of initial certification” means that the individual has completed registration for first-time candidacy (including payment of the registration fee).***

- 3.10 “**Instructional facilitator**” means an individual holding a valid Arkansas teacher’s license who facilitates continuous improvement in classroom instruction by providing instructional and professional learning support to teachers for research-based instruction and by demonstrating the alignment of instruction with curriculum standards and assessment tools.
- 3.11 “**Instructional leader**” means a building-level administrator who is responsible for evaluating teachers or instructional staff. It shall include without limitation a building-level administrator who is an evaluator as defined in A.C.A § 6-17-2803.
- 3.12 “**NBCT**” means National Board Certified Teacher.
- 3.13 “**NBPTS Candidacy**” means an applicant’s participation in the NBPTS program for becoming a certified teacher under these rules;
- 3.14 “**Public School**” means a school serving students in any of grades K-12 that is assigned a local education agency (LEA) number by the ADE.
- 3.15 “**State Board**” means the Arkansas State Board of Education.
- ~~3.16 “Higher education eligibility” refers to teachers who have worked a minimum of three (3) years with National Board certification as a classroom teacher, building-level principal or building-level assistant principal in an Arkansas public school district before full time employment as a teacher in an accredited teacher preparation program at a state-sponsored institution of higher education.~~
- ~~3.17 “Starting bonus” means a one-time bonus given during the school year in which an individual first obtains National Board certification. The amount is \$5,000. This provision shall apply only to the extent that necessary funds are appropriated to the Department.~~
- ~~3.18 “Yearly bonus” means a bonus that a NBCT receives in each of years two (2) through ten (10) of the 10-year life of the certificate. The amount is \$5,000. This provision shall apply only to the extent that necessary funds are appropriated to the Department.~~
- ~~3.19 “Three (3) continuous years” means the three-year period following certification that includes the year of certification and the two years immediately following certification.~~
- ~~3.20 “Three (3) years of teaching in the Arkansas public school system”, as required for state support of candidacy, shall be credited beginning no earlier than the year in which the initial license to teach in an Arkansas public school is issued.~~

#### 4.00 Selection Process and Requirements for NBPTS Support for Payment for NBPTS Candidacy

- 4.1 Qualified NBPTS applicants will establish eligibility for funding by Application criteria:
- 4.1.1 An applicant shall complete successfully completing the official application process established by the Department;
  - 4.1.2 never having received any prior state funding for participation in a certification area in the NBPTS program An applicant shall not have received prior state funding for NBPTS candidacy;
  - 4.1.3 verifying An Applicant shall verify at least three (3) years teaching experience in an Arkansas public school that can include the years following initial licensure, a current standard Arkansas teaching license, and current employment as an Arkansas public school classroom teacher in a classroom setting beginning no earlier than the year in which the applicant's first license to teach in an Arkansas public school is issued; and
  - 4.1.4 An applicant shall provide evidence that the applicant has taught teaching in an area that correlates to an available and suitable National Board certificate area.
- 4.2 Selection process:
- 4.2.1 A candidate shall meet or exceed the cut score for the application process, recommended by the Advisory Committee and set by the State Board.
  - 4.2.2 When candidate demands exceed funding availability, the The NBPTS Advisory Committee will review applications and recommend to the Department an appropriate selection of candidates to be funded.
- 4.3 ~~At the time that the National Board establishes a certification for school administrators and an Arkansas district level central office administrator becomes national board certified, the district level central office administrator will be eligible to receive incentive bonuses in the amount awarded to NBCTs for every year for the life of the NBPTS administrator's certificate.~~
- 4.4 ~~Achieving NBCT status prior to renewal of the Arkansas standard teaching license satisfies professional development requirements for the one-year teaching license renewal period. The Department will supply the appropriate form to be submitted with the teaching license renewal documents.~~
- 4.4.1 ~~Achieving a total score of 225 across all of the ten entries submitted to the NBPTS satisfies one-half of the professional development requirements for the period between the beginning and end of one renewal~~

period.

4.3 Payment of component costs for NBPTS Candidacy:

4.3.1 The Department shall pay the following costs associated with NBPTS candidacy for candidates selected for participation under these rules:

4.3.1.1 The cost of submission for the four (4) components, excluding: (a) the application fee assessed by the National Board, (b) retake fees, and (c) renewal fees; and

4.3.1.2 Substitute teacher pay for up to three (3) days of approved paid leave.

4.4 A candidate who pays for the cost of the first certification component may apply to the Department for reimbursement of that cost and for state support of the remaining certification components if the Department receives the application within sixty (60) days after the candidate passes the submitted component. The Advisory Committee shall review the application and make a recommendation to the State Board for funding.

4.5 Repayment of funding:

4.5.1 Repayment of state funds for the NBPTS is required if a recipient:

4.5.1.1 Does not complete the certification process within three (3) years after the NBPTS enters the candidate into its certification program; or

4.5.1.2 Becomes a NBCT with the support of state funds, but for the three-year period following certification that includes the year of certification and the two years immediately following certification, does not teach in an Arkansas public school classroom or does not serve as a building-level administrator, a building-level assistant, an instructional facilitator, or instructional leader, as applicable.

4.5.2 A candidate required to repay funds under this section may seek a waiver of repayment from the State Board if the candidate was forced to withdraw from candidacy due to:

4.5.2.1 The death or disability of the teacher, or

4.5.2.2 Other serious extenuating circumstances approved by the Advisory Committee, including without limitation health related problems verified by a licensed physician.

~~6.14.6~~ The State Board ~~can revoke~~ may suspend a recipient's teaching license for failure to repay state funds provided under these rules. The teaching license

may be reinstated upon full payment as provided in the ADE Rules Governing Educator Licensure.

## **5.00 Payment of Fees and Bonuses for NBPTS Candidacy and Certification Incentive Bonuses**

- 5.1 For a NBCT who began the process of **initial** certification ~~or recertification process~~ or was certified or recertified **before** January 1, 2018:
- 5.1.1 The Department shall pay a yearly incentive bonus to a classroom teacher, building-level principal, or building-level assistant principal who is selected to participate in the NBPTS program under these rules and who at the time of receiving the bonus:
- 5.1.1.1 Is employed full time as a classroom teacher, building-level principal, or building-level assistant principal in an Arkansas public school;
- 5.1.1.2 Is a NBCT **certified on or after August 1, 2009, who moved into the state before January 1, 2017,** and who after working a minimum of three (3) years with National Board certification as a classroom teacher or as a building-level administrator or building-level assistant administrator in an Arkansas public school district is employed full time as a teacher in an accredited teacher preparation program at a state-sponsored institution of higher education; ~~or~~
- 5.1.1.3 Is a NBCT **certified on or after August 1, 2009,** and who moves into the state on or before January 1, 2017, and ~~either:~~ is employed full time as a classroom teacher, building-level principal, or building-level assistant principal in an Arkansas public school; or
- 5.1.1.4 Is a NBCT **certified on or after August 1, 2009, and** who moves into the state on or before January 1, 2017, and after working a minimum of three (3) years with National Board certification as a classroom teacher or as a building-level administrator or building-level assistant administrator in an Arkansas public school district is employed full time as a teacher in an accredited teacher preparation program at a state-sponsored institution of higher education.
- 5.1.2 A NBCT who meets the qualifications of Section 5.1 and is working **full-time** in a school, including an open enrollment public charter school, that is not a high-poverty school or a high-poverty charter school shall receive a yearly incentive bonus of five thousand dollars (\$5,000) for **the length of the**

- certification or the recertification, but for no more than ten (10) school years.
- 5.1.3 A NBCT who meets the qualifications of Section 5.1 and is working full-time in a school that is a high-poverty school that is not in a high-poverty school district shall receive a yearly incentive bonus of five thousand dollars (\$5,000) for the length of the certification or the recertification, but for no more than ten (10) school years.
- 5.1.4 A person who meets the qualifications of Section 5.1 and is working full-time in a school that is a high-poverty school in a high-poverty district or is a high-poverty charter school shall receive a yearly incentive bonus of ten thousand dollars (\$10,000) for the length of the certification or the recertification, but for no more than ten (10) school years.
- 5.2 For a NBCT who began the certification process AND was certified after January 1, 2018, the Department shall pay a yearly incentive bonus to a classroom teacher, an instructional facilitator, or an instructional leader as follows:
- 5.2.1 A NBCT who meets the qualifications of Section 5.2 and is working full-time in a school, including an open enrollment public charter school, that is not a high-poverty school or a high-poverty charter school shall receive a yearly incentive bonus of two thousand five hundred dollars (\$2,500) for no more than five (5) school years.
- 5.2.2 A NBCT who meets the qualifications of Section 5.2 and is working full-time in a school that is a high-poverty school that is not in a high-poverty school district shall receive a yearly incentive bonus of five thousand dollars (\$5,000) for no more than five (5) school years.
- 5.2.3 A person who meets the qualifications of Section 5.2 and is working full-time in a school that is a high-poverty school in a high-poverty district or is a high-poverty charter school shall receive a yearly incentive bonus of ten thousand dollars (\$10,000) for no more than ten (10) school years.
- 5.3 Bonuses shall be paid by June 1 of each year.
- 5.4 A person shall not receive in the same school year more than one (1) yearly incentive bonus under Section 5.2; and
- 5.5 A person shall not receive in the same school year both a bonus under Sections 5.1 and 5.2.
- 5.5.1 A person who, as of December 1, 2017, meets the qualifications for a yearly incentive bonus under both Sections 5.1 and 5.2 may make an irrevocable election to receive future yearly incentive bonuses under Section 5.2 by filing a written election with the department no later than July 1, 2019.

- 5.6 The Department shall not pay an incentive bonus or any increase in an incentive bonus retroactively.
- 5.7 The Department shall cease paying an incentive bonus to a person who:
- 5.7.1 Has received an incentive bonus for ten (10) *school* years;
  - 5.7.2 Leaves the full-time employment of an Arkansas public school district;
  - 5.7.3 Becomes employed as a district-level central office administrator;
  - 5.7.4 Is employed by an Arkansas institution of higher education and does not teach in an accredited teacher preparation program; or
  - 5.7.5 Is employed by an education service cooperative and does not teach in a classroom with students.
- 5.8 A person shall not receive a bonus under multiple sections of these rules in the same school year.
- 5.9 *A traveling teacher who is eligible for a bonus under these rules shall receive the bonus for the school that the teacher's contract identifies as the teacher's home base.*
- ~~5.1 The Department shall pay full tuition for the NBPTS initial participation fee, one retake entry fee, and up to three days of school release time to qualified teacher applicants as funds are available.~~
- ~~5.2 The Department shall pay a starting bonus in the first year of certification and a yearly bonus for each of the remaining nine years of the ten-year certificate to any NBCT who is employed in an Arkansas public school district (except as prescribed in Section 5.02.1) as a teacher in accordance with Section 3.05-3.06 of these rules. This bonus will be paid to:~~
- ~~5.2.1 Eligible NBCTs participating in State Board approved teaching excellence programs such as Arkansas Teacher of the Year, or~~
  - ~~5.2.2 Any NBCT who has successfully completed the NBPTS certification as a classroom teacher and is employed in an Arkansas public school district as a building administrator or assistant building administrator, or~~
  - ~~5.2.3 Any NBCT after working a minimum of three (3) years with National Board certification as a classroom teacher or employed as a building level administrator or building level assistant administrator in an Arkansas public school district; a NBCT may be employed full time as a teacher in an accredited teacher preparation program at a state sponsored institution of higher education holding National Board certification on or after August 1, 2009.~~



~~5.2.3.1—A bonus payment shall not be made retroactively.~~

~~5.2.3.2—Bonuses shall be paid to those described in Section 5.02.3 of these rules 30 days prior to the closing of the fiscal year only if funds are available after payments are made to those eligible under sections 5.02, 5.02.1, 5.02.2, and 5.03 of these rules.~~

~~5.3—Any NBCT who moves into the state and teaches in an Arkansas public school classroom shall be eligible for the yearly bonus for every remaining year in the life of the NBPTS certificate; provided that the same bonus is available to a NBCT who moves into the state and assumes the position of building administrator or assistant building administrator in a public school district for the life of the NBPTS certificate.~~

~~5.4—Available funds for NBPTS state activities support functions in this order of priority: (a) payment of bonus incentives; (b) initial fee payments; (c) necessary program expenses; (d) support system expenses; and (e) retake entry fees.~~

~~5.5—No increase in the starting or yearly bonus is retroactive.~~

~~5.6—The Department will issue a provisional or standard Arkansas teaching license in incompatible areas to any National Board certified teacher, building level principal, or building level assistant principal trained in and holding a valid license issued by a state other than Arkansas who moves to Arkansas, provided that the NBCT status is current at the time of license application and that the applicant passes the required criminal background check.~~

~~5.7—An Arkansas licensed teacher who personally pays the expenses of NBPTS candidacy and becomes a NBCT is eligible for a starting and yearly bonus under the same terms as a NBCT who achieves certification through state fee support.~~

~~5.8—Provisions of Ark. Code Ann. §§6-17-412 and §§6-17-413 apply only to the extent that necessary funds are appropriated to the Department.~~

## **6.00—Repayment of Fees for NBPTS**

~~6.1—Repayment of state funds for the NBPTS is required if a recipient:~~

~~6.1.1—Does not complete the certification process within three (3) years after entry,~~

~~6.1.2—Becomes a NBCT with the support of state funds, does not teach in an Arkansas public school classroom in an Arkansas public school district for three (3) continuous school years or does not serve as a building level administrator or building level assistant administrator for three (3) continuous years after achieving NBCT status.~~

~~6.2—Repayment of funds is not required if the candidate is forced to withdraw from~~

~~candidacy due to:~~

~~6.2.1 death or disability of the teacher, or~~

~~6.2.2 other serious extenuating circumstances and/or health related problems verified by a licensed physician as may be recognized by the State Board.~~

~~6.3 The State Board can revoke a teaching license for failure to repay state funds.~~

### **7.006.00 Support Program for Teachers Selected to Participate in NBPTS Candidacy**

~~7.16.1~~ The State Board will establish a support program for teachers selected to participate in NBPTS by the NBPTS Program that provides technical assistance to program applicants to ensure successful program completion, which may include without limitation:

~~7.1.16.1.1~~ Establishing a variety of support opportunities such as annual pre-candidacy orientations, regular meetings of participants, telephone/email contact with facilitators and NBCTs, and Department intervention with NBPTS if necessary;

~~7.1.26.1.2~~ Providing information on the NBPTS state support program on the Department web site;

~~7.1.36.1.3~~ Providing other assistance, if determined to be necessary by the Department; and

~~7.1.46.1.4~~ Designating Department staff to coordinate NBPTS activities at the state-level Providing other assistance determined to be necessary by the Department.

~~7.2 Provisions of Ark. Code Ann. §§6-17-412 and 6-17-413 apply only to the extent that necessary funds are appropriated to the Department.~~

~~7.36.2~~ Credit for professional development may be obtained pursuant to school district policy.

### **8.007.00 Monitoring for NBPTS Program Participation**

~~8.17.1~~ The local public school district that employs a NBCT ~~must~~ shall verify to the Department annually the employment status of that teacher for each year ~~of the ten-year life of the certificate~~ in which the NBCT is eligible for an incentive bonus.

~~8.2—A person shall not receive either a starting bonus or a yearly bonus if the person:~~

~~8.2.1—leaves the full-time employment of an Arkansas public school district;~~

~~8.2.2—becomes employed as a district-level central office administrator (subject to the provisions of Section 4.03);~~

~~8.2.3— is employed by an Arkansas institution of higher education and does not meet the requirements as defined in Sections 3.07 and 5.02.03 of these rules; or~~

~~8.2.4— is employed by an education service cooperative and does not teach in a classroom with students as defined in Sections 3.05–3.06 of these rules.~~

### **9.008.00 Funding for NBPTS Candidacy and Certification Limitations**

~~9.18.1~~ Provisions of these rules and Ark. Code Ann. §§6-17-412 and 6-17-413 apply only to the extent that funds are appropriated and available to the Department to pay for these provisions purposes.

***8.2 Funding under Sections 5.1.1.2 and 5.1.1.4 shall be paid only if funds are available after funding all eligible candidates under Sections 5.1.1.1 and 5.1.1.3.***

~~9.2~~ To the extent funds as provided for by Ark. Code Ann. §26-52-311(e)(3)(B) are available, such funds may be used to fund the “starting incentive bonus” and the “yearly incentive bonus” required in §§3.07 and 3.08 of these rules and required by Ark. Code Ann. §6-17-413.

### **EMERGENCY AND EFFECTIVE DATES**

WHEREAS, the State Board of Education and the Arkansas Department of Education are proposing these rule changes for the purpose of providing qualified educators in Arkansas public schools, and to remove some barriers to the recruitment and retention of persons interested in becoming licensed teachers and administrators; and

WHEREAS, Act 937 has been in effect since July 31, 2017, and is being implemented by these rules. The Act changed the amounts and criteria for eligibility and payment of incentive bonuses for NBCTs who are employed in high poverty schools, high poverty schools within high poverty districts, and high poverty charter schools. Legislative testimony before the Education Committee during the 2017 legislative session indicated that the purpose of the legislation was to provide financial incentives to encourage more National Board Certified Teachers (NBCTs) to seek employment in our school districts with the highest poverty rates; and

WHEREAS, the Arkansas Department of Education sought stakeholder input before presenting the proposed rules to the Governor and the State Board of Education. Following the first public comment period, the Department made revisions, received a second approval from the Governor, and republished

the rules for a second comment period; and

WHEREAS, school districts have a May 1 deadline for communicating contract decisions to teachers and administrators; and

WHEREAS, teachers who are National Board Certified or who are seeking renewal or initial certification, or who are moving into the state, need to make those decisions based on these rules for employment in the 2018-2019 school year. NBCTs currently employed by schools that are not high poverty schools and who want to move to high poverty schools to receive this incentive may need to make those decisions by May 1; and

WHEREAS, for the reasons stated above, these rules need to be implemented immediately; and

WHEREAS the State Board of Education finds that imminent peril exists to the public educational health, safety and welfare of the school children in Arkansas due to the critical need for qualified and effective licensed educators in public schools;

THEREFORE, the State Board of Education and the Arkansas Department of Education promulgate these rules as Emergency Rules Governing Eligibility and Financial Incentives for National Board for Professional Teaching Standards Candidacy and Certification pursuant to authority of Ark. Code Ann. § 25-15-204 in order to implement the changes needed for the proper preparation and licensure of public school teachers, administrators, and other licensed school personnel.

These Emergency Rules shall go into effect on March 8, 2018.

These Emergency Rules shall expire July 8, 2018.

Chart 1. Bonuses (through 2030)



**NBCT YEAR OF BONUS  
(Act 937 of 2017)**  
Effective 8/1/2017

LEGEND:

**CT:** Classroom Teacher  
**BLP:** Building Level Principal  
**BLAP:** Building Level Asst Principal  
**IF:** Instructional Facilitator

**IL:** Instructional Leader  
**HPS:** High Poverty School  
**HPCS:** High Poverty Charter School  
**HPD:** High Poverty District

	YEAR OF CERTIFICATION OR RENEWAL	FOR PUBLIC SCHOOL EMPLOYMENT (NOT HPS, HPCS, OR HPS IN A HPD, or by election filed with ADE)			FOR HPS EMPLOYMENT (as CT, IF, IL, BLP, and BLAP)			FOR HPS IN A HPD EMPLOYMENT (as CT, IF, IL only)			FOR HPCS EMPLOYMENT (as CT, IF, IL only)		
		BONUS AMOUNT	MAX. # OF YRS	FINAL BONUS YR	BONUS AMOUNT	MAX. # OF YRS	FINAL BONUS YR	BONUS AMOUNT	MAX. # OF YRS	FINAL BONUS YR	BONUS AMOUNT	MAX. # OF YRS	FINAL BONUS YR
<b>BEFORE 1/1/2018*:</b> Certified, renewed, OR began the initial certification process OR <b>BEFORE 1/1/2017*:</b> Moved to AR as NBCT	On or < 2007	\$ 5,000	10	2017		***			***			***	
	2008	\$ 5,000	10	2018	(Same as Public School Employment Column)			\$ 10,000	10	2018	\$ 10,000	10	2018
	2009	\$ 5,000	10	2019		\$ 10,000	10	2019	\$ 10,000	10	2019		
	2010	\$ 5,000	10	2020		\$ 10,000	10	2020	\$ 10,000	10	2020		
	2011	\$ 5,000	10	2021		\$ 10,000	10	2021	\$ 10,000	10	2021		
	2012	\$ 5,000	10	2022		\$ 10,000	10	2022	\$ 10,000	10	2022		
	2013	\$ 5,000	10	2023		\$ 10,000	10	2023	\$ 10,000	10	2023		
	2014	\$ 5,000	10	2024		\$ 10,000	10	2024	\$ 10,000	10	2024		
	2015	\$ 5,000	10	2025		\$ 10,000	10	2025	\$ 10,000	10	2025		
	2016	\$ 5,000	10	2026		\$ 10,000	10	2026	\$ 10,000	10	2026		
	2017	\$ 5,000	10	2027		\$ 10,000	10	2027	\$ 10,000	10	2027		
	2018	\$ 5,000	10	2028		\$ 10,000	10	2028	\$ 10,000	10	2028		
	2019	\$ 5,000	10	2029		\$ 10,000	10	2029	\$ 10,000	10	2029		
<b>ON/AFTER 1/1/2018**:</b> Began the initial certification process AND received certification (includes NBCT who moves to AR)	2019	\$ 2,500	5	2024	\$ 5,000	5	2024	\$ 10,000	10	2029	\$ 10,000	10	2029
	2020	\$ 2,500	5	2025	\$ 5,000	5	2025	\$ 10,000	10	2030	\$ 10,000	10	2030
	2021	\$ 2,500	5	2026	\$ 5,000	5	2026	\$ 10,000	10	2031	\$ 10,000	10	2031
	2022	\$ 2,500	5	2027	\$ 5,000	5	2027	\$ 10,000	10	2032	\$ 10,000	10	2032
	2023	\$ 2,500	5	2028	\$ 5,000	5	2028	\$ 10,000	10	2033	\$ 10,000	10	2033
	2024	\$ 2,500	5	2029	\$ 5,000	5	2029	\$ 10,000	10	2034	\$ 10,000	10	2034
	2025	\$ 2,500	5	2030	\$ 5,000	5	2030	\$ 10,000	10	2035	\$ 10,000	10	2035
	2026	\$ 2,500	5	2031	\$ 5,000	5	2031	\$ 10,000	10	2036	\$ 10,000	10	2036
	2027	\$ 2,500	5	2032	\$ 5,000	5	2032	\$ 10,000	10	2037	\$ 10,000	10	2037
	2028	\$ 2,500	5	2033	\$ 5,000	5	2033	\$ 10,000	10	2038	\$ 10,000	10	2038
	2029	\$ 2,500	5	2034	\$ 5,000	5	2034	\$ 10,000	10	2039	\$ 10,000	10	2039
	2030	\$ 2,500	5	2035	\$ 5,000	5	2035	\$ 10,000	10	2040	\$ 10,000	10	2040

\* ACA 6-17-413(a)

\*\* ACA 6-17-413(e)-(f)

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# YRS SHOWN IS CUMULATIVE FROM DATE OF CERTIFICATION (10 yrs is max.)

*Revised following public comment*  
 SUMMARY FOR DEPARTMENT OF EDUCATION RULES GOVERNING  
 ELIGIBILITY AND FINANCIAL INCENTIVES FOR NATIONAL BOARD  
 FOR PROFESSIONAL TEACHING STANDARDS CANDIDACY AND CERTIFICATION

These rules apply to the payment of costs, support, and incentive bonuses under Ark. Code Ann. §§ 6-17-412 and 6-17-413, as amended by Act 937 of 2017.

Generally, the definitions are revised to more closely reflect statutory language and other changes are made to reorganize the rules and provide greater clarity. The substantive changes are highlighted below. *Italicized language indicates changes following public comment.*

### **Section 3.00 – Definitions**

Sections 3.6, 3.7, 3.8, 3.10, and 3.11 are included from Act 937.

*Section 3.9 is added to define what is meant by beginning the “process of initial certification” as that term is used in 4.5.1.1, 5.1, 5.2, and on Chart 1.*

### **Section 4.00 – Selection Process for Payment for NBPTS Candidacy**

Section 4.3 - Clarifies the payment of component costs for selected candidates.

Section 4.4 - Allows a candidate who is self-funded initially to apply for participation.

Sections 4.5, 4.6 - These sections are moved to this location from former Section 6, and reworded for clarity.

### **Section 5.00 – Payment of Incentive Bonuses**

This section implements Act 937. Old language that is superseded by Act 937 is removed.

*Section 5.1 is revised to refer to initial certification for clarification.*

*Following public comment, Sections 5.1, 5.1.1.2, 5.1.2, 5.1.3, and 5.1.4 were revised to more closely align the language of the rule to the language of Act 937. Similar changes were made to 5.2.*

*Section 5.9 adds a provision for a traveling teacher that may work in multiple schools meeting different criteria for high poverty school, high poverty school in a high poverty district, and high poverty charter school.*

### **Section 6.00 – Support Program for Teachers Selected to Participate in NBPTS Candidacy**

*[Provisions of former Section 6 are moved to new Section 4.5]*

The changes in this section are made for clarity.

### **Section 7.00 – Monitoring for NBPTS Program Participation**

The changes in this section are made for clarity.

*[Former Section 8.2 provisions are moved to new Section 5.5]*

### **Section 8.00 – Funding Limitations**

The changes in Section 8.1 are technical only.

Section 8.2 is added to restate former provision 9.2.

**Chart 1** – This chart is added to provide a visual aid for the payment of bonuses under Act 937.

## Freeburn, Vicki

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**From:** Jami Triplett <jami.triplett@sos.arkansas.gov>  
**Sent:** Friday, February 23, 2018 3:22 PM  
**To:** Lori Freno (ADE)  
**Subject:** RE: Proposed rules for emergency promulgation

Hi Lori,  
We will be able to file these emergency rules as soon as we receive the paper copies as well.

*Jami Triplett*

Arkansas Secretary of State  
Elections Division  
501-682-3476

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**From:** Lori Freno (ADE) [mailto:Lori.Freno@arkansas.gov]  
**Sent:** Friday, February 23, 2018 3:18 PM  
**To:** Arkansas Register <ArkansasRegister@sos.arkansas.gov>  
**Subject:** Proposed rules for emergency promulgation

Good afternoon. The ADE will be seeking approval of the Executive Subcommittee of the ALC to promulgate the following emergency rules/rules repeal:

- ADE Rules Governing Educator Licensure;
- ADE Rules Governing Educator Preparation Program Approval (Repeal); and
- ADE Rules Governing Eligibility and Financial Incentives for National Board for Professional Teaching Standards Candidacy and Certification.

Attached are the proposed emergency rules/rules repeals, a Financial Impact Statement for each, a Notice of Rulemaking (with email confirming the date on which it will run in the Democrat-Gazette), and rules summaries. (Please note that I've attached only one Notice of Rulemaking and one Dem/Gaz confirmation, as they both were on the same notice).

Would you please confirm your receipt of this email?

If you have any questions, please feel free to call me at (501) 682-4234. Thanks so much!

Lori Freno  
General Counsel  
Arkansas Department of Education  
Four Capitol Mall, Room 302A  
Little Rock, AR 72201  
Ph: (501) 682-4234



**State of Arkansas**  
**Bureau of**  
**Legislative Research**

Marty Garity, Director  
Kevin Anderson, Assistant Director  
for Fiscal Services  
Tim Carlock, Assistant Director  
for Information Technology  
Matthew Miller, Assistant Director  
for Legal Services  
Richard Wilson, Assistant Director  
for Research Services

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## Memorandum

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**TO: Members, ALC – Executive Subcommittee**

**FROM: Rebecca Miller-Rice, Legislative Attorney, Administrative Rules Review Section, Legal Services Division**

**CC: Marty Garity, Director, Bureau of Legislative Research;  
Jessica Sutton, Administrator, Administrative Rules Review Section,  
Legal Services Division**

**DATE: February 26, 2018**

**SUBJECT: Legal Authorization for Emergency Promulgation of the Rules Governing Eligibility and Financial Incentives for National Board for Professional Teaching Standards Candidacy and Certification by the Arkansas Department of Education**

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Pursuant to Arkansas Code Annotated § 6-17-413(a)(2)(A), the State Board of Education (“State Board”) shall promulgate rules and regulations for the selection process of teacher participants in the program of the National Board for Professional Teaching Standards (“National Board”). The State Board is further authorized to promulgate rules and regulations to establish a support program for teachers selected to participate in the program of the National Board. *See* Ark. Code Ann. § 6-17-413(a)(4). The proposed rule changes include revisions made in light of Act 937 of 2017, which served to target and enhance incentive bonuses for teachers employed in high-poverty schools who obtain National Board certification; modified the eligibility criteria and codified the amount of incentive bonuses for current recipients; and repealed unfunded incentive bonuses.