

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

DEPARTMENT/AGENCY Arkansas Department of Education- Division of Elementary and Secondary Education
DIVISION Fiscal and Administrative Services
DIVISION DIRECTOR Greg Rogers
CONTACT PERSON Courtney Salas-Ford
ADDRESS Four Capitol Mall, Room 301-A, Little Rock, AR 72201
PHONE NO. 501-682-4752 FAX NO. 501-682-4249 E-MAIL Courtney.Salas-Ford@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Courtney Salas-Ford
PRESENTER E-MAIL Courtney.Salas-Ford@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, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? ADE-DESE EMERGENCY Rules Governing the Educator Compensation Reform Program
2. What is the subject of the proposed rule? Implementation of the Educator Compensation Reform Program
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. _____
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? July 1, 2019
- When does the emergency rule expire? October 28, 2019

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If yes, a copy of the repealed rule is to be included with your completed questionnaire.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."**

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 and 25-15-201 et seq. and Act 877 of 2019.

7. What is the purpose of this proposed rule? Why is it necessary?
These proposed new rules govern implementation of the Educator Compensation Reform Program created by Act 877 of 2019 to provide funds to assist school districts currently below the statutory minimum teacher salary schedule in meeting the new required minimums.

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/pending>

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

Date: _____

Time: _____

Place: _____

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

N/A

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

July 1, 2019

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. See 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). See 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.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Education

DIVISION Fiscal and Administrative Services

PERSON COMPLETING THIS STATEMENT Courtney Salas-Ford

TELEPHONE 501-682-4752 **FAX** 501-682-4249 **EMAIL:** Courtney.Salas-Ford@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 ADE-DESE EMERGENCY Rules Governing the Educator Compensation Reform Program

- 1. Does this proposed, amended, or repealed rule have a financial impact? Yes No

- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No

- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;

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

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

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

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

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

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____

Other (Identify) _____
 Total _____

Other (Identify) _____
 Total _____

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

Current Fiscal Year

Next Fiscal Year

General Revenue 0
 Federal Funds 0
 Cash Funds 0
 Special Revenue 0
 Other (Identify) 0
 Total 0

General Revenue 0
 Federal Funds 0
 Cash Funds 0
 Special Revenue 0
 Other (Identify) 0
 Total 0

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

\$ 0

\$ 0

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

\$ 0

\$ 0

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

From: [Courtney Salas-Ford \(ADE\)](#)
To: ["register@sos.arkansas.gov"](mailto:register@sos.arkansas.gov)
Subject: Notice of Filing - Emergency ADE-DESE Rules Governing the Educator Compensation Reform Program
Date: Friday, June 14, 2019 11:36:00 AM
Attachments: [MARK-UP DRAFT EMERGENCY Educator Compensation Reform Program Rules.pdf](#)
[CLEAN DRAFT EMERGENCY Educator Compensation Reform Program Rules.pdf](#)
[Bl.R-Financial Impact Statement - Emergency ECRP Rules.pdf](#)
[Summary of Rule - ECRP.docx](#)

Please find attached the following Emergency rules approved by the Arkansas State Board of Education on June 13, 2019:

- ADE-DESE Emergency Rules Governing the Educator Compensation Reform Program

A financial impact statement and summary of these new rules are also attached.

Please confirm receipt of these rules.

Thank you,
Courtney Salas-Ford
Deputy General Counsel
Ark. Dep't of Education
Four Capitol Mall, Rm. 301-A
Little Rock, AR 72201
(501) 682-4752



Arkansas Department of Education

Transforming Arkansas to lead the nation in student-focused education

June 14, 2019

Johnny Key
Commissioner

Via Email: 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 the Educator Compensation Reform Program**

Charisse Dean
Little Rock
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. Included in this email is a BLR Questionnaire, as well as a Financial Impact Statement, summary of rule, and copy of the proposed emergency rule. On June 14, 2019, ADE will also file with BLR the permanent promulgation version of these rules approved by the State Board of Education for public comment. The State Board of Education approved these rules for emergency promulgation on June 13, 2019.

Dr. Fitz Hill
Little Rock

Kathy McFetridge
Springdale

Dr. Sarah Moore
Stuttgart

The emergency clause in the rule more fully explains the need for the emergency promulgation. However, in short, these rules are necessary to implement the Educator Compensation Reform Program established by Act 877 of 2019 to assist school districts in meeting new required minimums for teacher salaries. It is necessary to promulgate these rules as an emergency rule in order to adequately implement the disbursement of funding for the 2019-2020 school year.

Ouida Newton
Poyen

R. Brett Williamson
El Dorado

Diane Zook
Melbourne

If you have any questions, please do not hesitate to call me at (501) 682-4752.

Respectfully submitted,

Courtney Salas-Ford
Deputy General Counsel
Arkansas Department of Education

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

cc: Ms. Rebecca Miller-Rice (miller-ricer@blr.arkansas.gov)

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SUMMARY OF RULES:
ARKANSAS DEPARTMENT OF EDUCATION
DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING THE EDUCATOR COMPENSATION REFORM PROGRAM

These proposed new rules govern implementation of the Educator Compensation Reform Program created by Act 877 of 2019 to provide funds to assist school districts currently below the statutory minimum teacher salary schedule in meeting the new required minimums established by Act 170 of 2019.

ARKANSAS DEPARTMENT OF EDUCATION
DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING THE EDUCATOR COMPENSATION REFORM PROGRAM
EMERGENCY RULE - Effective July 20, 2019

1.00 PURPOSE

- 1.01 These rules shall be known as the Arkansas Department of Education Rules Governing the Educator Compensation Reform Program.
- 1.02 The purpose of these rules is to provide the process and procedures necessary to calculate and allocate Educator Compensation Reform Program funds to eligible school districts.

2.00 AUTHORITY

- 2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by Ark. Code Ann. §§ 6-11-105, 25-15-201 et seq., and Acts 170 and 877 of 2019.

3.00 DEFINITIONS

As used in these rules:

- 3.01 "Educator Compensation Reform Program fund" means a fund established within the Public School Fund for the Arkansas Department of Education, made available to school districts to assist with the cost of increasing teacher salaries as required by Ark. Code Ann. § 6-17-2403.
- 3.02 "Foundation Funding" means the same as the definition set forth in Ark. Code Ann. § 6-20-2303(7) and is the amount set forth in Ark. Code Ann. § 6-20-2305(a)(2).
- 3.03 "Teacher" means an individual who is required to hold a teaching license from the Department of Education 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, a guidance counselor, or a librarian.
- 3.03.1 "Teacher" also includes a nonlicensed classroom teacher employed in a position under a waiver from licensure.

4.00 IMPLEMENTATION

- 4.01 The Educator Compensation Reform Program ("Program") is designed to assist school districts in increasing the minimum teacher salary for a teacher with a bachelor's degree and zero (0) years of experience, to \$36,000 over a four-year period, beginning with the 2019-2020 school year.

- 4.02 School districts that adhered to a teacher compensation schedule at or above \$36,000 for a teacher with a bachelor's degree and zero (0) years of experience in the 2018-2019 school year shall not be eligible for funds under the Program.
- 4.03 School districts that implement a teacher compensation schedule at or above \$36,000 for a teacher with a bachelor's degree and zero (0) years of experience prior to the 2022-2023 school year shall not be eligible to receive funding under the Program the year after the \$36,000 minimum salary schedule becomes effective and thereafter.
- 4.04 Any public school district or open-enrollment public charter school that has or receives a waiver of the teacher minimum salary schedule during implementation of the Program shall not be eligible to receive Program funds and shall be responsible for repayment of any Program funds received prior to receiving the waiver.
- 4.05 School districts requesting Program funds shall provide information documenting eligibility for Program funds to the Department, including without limitation, the school district's plan for implementation of required salary increases and any anticipated or projected adjustments to staff, by completing and submitting the editable application form available on the Department's website at: <http://www.arkansased.gov/divisions/fiscal-and-administrative-services>.

5.00 CALCULATION

- 5.01 The number of all licensed full-time equivalents (FTEs) not paid with federal funds in each school district will be used to calculate the amount of Program funds a school district is eligible to receive.
- 5.02 The amount of Program funds a school district is eligible to receive each year shall be calculated as follows:
- 5.02.1 Subtract each school district's minimum teacher salary for the prior school year for a teacher with a bachelor's degree and zero (0) years of experience from the minimum salary indicated by the school district for the current year, up to \$36,000.
- 5.02.2 Multiply the amount in 5.02.1 by the school district's 2017-2018 FTE count for licensed personnel not paid with federal funds.
- 5.02.3 Multiply the result from 5.02.2 by the current rate of Federal Insurance Contributions Act (FICA) tax and teacher retirement employer matching rate.
- 5.02.4 Add the result of 5.02.3 to the result of 5.02.2 to determine the total

amount necessary for the district to increase salaries and fringe.

6.0 DISBURSEMENT

6.01 School districts that qualify for Program funds will be notified of the amount the school district is eligible to receive.

6.02 The superintendent of a school district that receives Program funds shall certify acceptance of the funds, adherence to these rules, and expenditure of the funds for the specified purpose.

6.03 The Department shall disburse each school district's allocation of Program funds on or before February 15 each year of implementation, in accordance with the approved application form.

6.03.1 A school district may request that an adjustment be made to its disbursement of Program funds during implementation of the Program by submitting a new application form to the Department.

6.03.2 A request to change the disbursement of Program funds must be approved by the Commissioner of Education.

6.04 If funds are not sufficient to fully fund the Program, the Department shall distribute the available funding to eligible school districts on a pro rata basis.

Emergency Clause

Whereas, Act 170 of 2019, to be codified at Ark. Code Ann. § 6-17-2403(b), requires each school district in the State to have in place a salary schedule with specified minimum levels of compensation for a basic teacher contract beginning with the 2019-2020 school year;

Whereas, Act 877 of 2019 provides Educator Compensation Reform Program funds to assist school districts currently below the statutory minimum teacher salary schedule in meeting the new required minimums;

Whereas, Act 877 of 2019 requires the Arkansas State Board of Education to promulgate rules to administer disbursement of the Educator Compensation Reform Program funds, and the State Board has done so in these rules;

THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that immediate peril to the welfare of Arkansas public schools will result without the immediate promulgation of these rules to become effective July 1, 2019.



STATE OF ARKANSAS
BUREAU OF
LEGISLATIVE RESEARCH

Marty Garrity, 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

Memorandum

TO: Members, ALC – Executive Subcommittee

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

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

DATE: June 18, 2019

SUBJECT: Legal Authorization for the Emergency Promulgation of the *Arkansas Department of
Education Division of Elementary and Secondary Education Rules Governing the
Educator Compensation Reform Program*

The Arkansas Department of Education (“Department”), Division of Elementary and Secondary Education, seeks legislative review and approval for the emergency promulgation of its rules governing the implementation of the Educator Compensation Reform Program (“Program”). Act 877 of 2019, § 31, in special language, directs the Arkansas State Treasurer to transfer \$60,000,000 from the Educational Adequacy Fund to the Public School Fund to be used solely for the implementation of the Program. These funds are to be utilized over a four-year period, beginning July 1, 2019, to assist school districts in ensuring that all educators in Arkansas public school districts receive a minimum annual salary of \$36,000 by July 1, 2023. *See also* Act 170 of 2019, § 2 (amending the minimum teacher compensation schedule in Arkansas Code Annotated § 6-17-2403(b)). Pursuant to Act 877, § 31, the Department shall promulgate rules to administer the section.¹

¹ Act 877 and Act 170 contain emergency clauses and become effective on July 1, 2019. *See* Act 877, § 35; Act 170, § 3.