

ARKANSAS DEPARTMENT OF EDUCATION
DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING TEST SECURITY, TESTING VIOLATIONS, AND ALLEGED
TESTING IMPROPRIETIES

July 2013 Proposed Effective Date January 1, 2020

1.00 REGULATORY AUTHORITY

- 1.01 These rules shall be known as the Arkansas Department of Education Division of Elementary and Secondary Education ("Division") Rules Governing Test Security, Testing Violations, and Alleged Testing Improprities.
- 1.02 These rules are enacted pursuant to the Arkansas State Board of Education's authority under Ark. Code Ann. §§ 6-11-105, 6-15-401 et seq., 6-15-2901 et seq., 6-17-410, 25-15-201 et seq., and Act 930 of 2017.

2.00 PURPOSE

The purpose of these rules is to:

- 2.01 Define the requirements for maintaining test security and confidentiality on state required assessments;
- 2.02 Identify procedures for reporting testing violations;
- 2.03 Identify a procedure for investigating and addressing complaints regarding alleged testing improprieties; and
- 2.04 Identify categories of violations and actions for individuals, public schools, or public school districts found in violation of the test security requirements included in these Rules and Rules Governing the Arkansas Educational Support and Accountability Act.

3.00 DEFINITIONS

- 3.01 "District Test Coordinator" means the same as defined in the Division's Rules Governing the Arkansas Educational Support and Accountability Act.
- 3.02 "Ethics violation" means an act or omission on the part of an educator, when the educator knew, or reasonably should have known, that such acts or omissions were in violation of the Code of Ethics for Arkansas Educators;
- 3.03 "Public school" means:
- 3.03.1 A school operated by a public school district; or

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3.03.2 An open-enrollment public charter school, as defined in Ark. Code Ann. § 6-23-103.

3.04 “Public school district” means:

3.04.1 A geographic area that qualifies as a taxing unit for purposes of ad valorem property taxes under Ark. Code Ann. § 26-1-101 et seq. and Arkansas Constitution, Article 14, § 3, and is either:

3.04.1.1 Governed by an elected board of directors; or

3.04.1.2 Under the administrative control of the State Board or the Commissioner of Education in place of an elected board of directors; or

3.04.2 An open-enrollment public charter school, as defined in Ark. Code Ann. § 6-23-103.

3.05 “Sanction” means a penalty for failing to maintain the security or confidentiality of a state required assessment;

3.016 “Testing impropriety” “Conduct that violates the security or confidential integrity of a test or assessment” or “testing impropriety” means any departure from either the requirements established by the Commissioner of Education for the administration of the assessment law or rule or from the procedures specified in the applicable test administration materials or Division assessment training, that violates or compromises the security or confidential integrity of an assessment or inappropriately influences student performance or the reporting of student performance, and may include, without limitation, the following acts or omissions:

3.016.1 Viewing secure assessment materials;

3.016.2 Duplicating secure assessment materials;

3.016.3 Disclosing the contents of any portion of secure assessment materials;

3.01.4 Providing, suggesting, or indicating to an examinee a response or answer to any secure assessment items;

3.016.54 Aiding or assisting an examinee with a response or answer to any secure assessment item;

3.016.65 Changing or altering any response or answer of an examinee to a secure assessment item;

3.01.7 Failing to follow the specified testing procedures or to proctor students;

- ~~3.01.8 Failing to administer the assessment on the designated testing dates;~~
- ~~3.06.6 Failing to return the secured test booklets to the testing company in a timely manner;~~
- ~~3.01.97 Encouraging or assisting an individual to engage in conduct described in Section 3.01- 3.07 of these rules, the Department's Rules Governing the Arkansas Educational Support and Accountability Act, or in Ark. Code Ann. § 6-15-4386-15-2907;~~
- ~~3.01.108 Failing to report to the appropriate authority that an individual has engaged in conduct set forth in Section 3.01- 3.07 of these rules, the Department's Rules Governing the Arkansas Educational Support and Accountability Act, or in Ark. Code Ann. § 6-15-4386-15-2907; or~~
- ~~3.01.11 Failing to follow the specified procedures and required criteria for alternate assessments; or~~
- ~~3.01.12 Failing to return the secured test booklets to the testing company in a timely manner.~~
- ~~3.06.9 Having a founded history of repeated unresolved testing violations.~~
- ~~3.07 "Testing irregularity" means a departure from the established administration procedures that does not represent a severe breach in test security or confidentiality;~~
- ~~3.058 "Test Security Agreement" means the agreement provided to each test administrator or other educator involved in testing that outlines the security requirements for testing and the agreement that these are understood and will be followed by the signatory;~~
- ~~3.09 "Testing violation" means any departure from established procedures and administration requirements of the state required assessment as indicated in law, these Rules, test manuals, or Division training, and may include, without limitation, the following acts or omissions:~~
- ~~3.09.1 Failing to follow the specified testing procedures or to actively monitor students while testing;~~
- ~~3.09.2 Allowing personnel who are not trained in test security to access secure tests, testing materials, or an on-line test delivery system;~~
- ~~3.09.3 Failing to administer the assessment on the designated testing dates, unless otherwise approved by the Division;~~

3.09.4 Failing to provide an approved accommodation to a student that may influence the student's performance or providing accommodations to students for which they do not qualify or are not included in their Individualized Education Program (IEP) or 504 plan; or

3.09.5 Failing to follow the specified procedures and required criteria for alternate assessments.

4.00 GENERAL REQUIREMENTS

- 4.01 A violation of the security or confidential integrity of any test or assessment is prohibited.
- 4.02 Procedures for maintaining the security and confidential integrity of all testing and assessment instruments and procedures shall be specified in the appropriate test or assessment administration instructions, Division training provided for each assessment, or other policy documents issued by the Division.
- ~~4.03 The State Board of Education shall sanction a person who engages in conduct prohibited by these rules or by Ark. Code Ann. § 6-15-438.~~
- ~~4.04 Additionally, the State Board of Education may sanction a school district or school, or both, in which conduct prohibited by these rules or by Ark. Code Ann. § 6-15-438 occurs.~~
- ~~4.05 Sanctions imposed by the State Board of Education may include, without limitation, one (1) or more of the following:~~
 - ~~4.05.1 Revocation, suspension, or probation of an individual's license;~~
 - ~~4.05.2 Issuance of a letter of reprimand to a licensed individual to be placed in his or her state professional licensure file;~~
 - ~~4.05.3 Additional training or professional development to be completed by a licensed individual within the time specified;~~
 - ~~4.05.4 Additional professional development to be administered by the school district or open enrollment public charter school to all licensed school district personnel involved in test administration within the time specified;~~
 - ~~4.05.5 Issuance of a letter of warning to the school district or open enrollment public charter school; and~~
 - ~~4.05.6 Establishment of a school district or open enrollment public charter school plan containing strict test security guidelines that will implement~~

~~procedures to ensure the security and confidential integrity of all assessment instruments.~~

~~4.06 — Professional development required pursuant to these rules as a result of violating test security or confidentiality may be in addition to professional development required for licensure.~~

~~4.03 — The superintendent or equivalent in each public school district is responsible for the proper implementation of these Rules, Section 5.00 of the Division Rules Governing the Arkansas Educational Support and Accountability Act concerning the Statewide Student Assessment System, and the assessment requirements set forth in the Arkansas Educational Support and Accountability Act, Ark. Code Ann. § 6-15-2901 et seq.~~

5.00 REPORTING OF ALLEGED TESTING IMPROPRIETIES

~~5.01 — Any organization or individual, to include employees of a traditional public school, conversion public charter school, open enrollment public charter school and/or public school district, may file a written, signed report of alleged testing improprieties with the Department of Education.~~

~~5.01.1 — Traditional public schools, conversion public charter schools, open enrollment public charter schools and/or public school districts may file such a report by completing Form A (Attached).~~

~~5.01.2 — Any other organizations or individuals may file such a report by completing Form B (Attached).~~

~~5.01.3 — All reports should be filed immediately. All reports shall be filed not later than fourteen (14) days after the reporting party became aware of the alleged testing impropriety.~~

~~5.02 — Written reports must be submitted to:~~

~~Office of Student Assessment
ATTN: Testing Impropriety
Arkansas Department of Education
Four Capitol Mall
Little Rock, Arkansas 72201~~

~~5.03 — Written reports must include:~~

~~5.03.1 — A statement that conduct violating the security or confidential integrity of a test or assessment has occurred;~~

~~5.03.2 Specific facts upon which the statement is based, including without limitation:~~

~~5.03.2.1 — When the alleged violation occurred;~~

~~5.03.2.2 — Where the alleged violation occurred;~~

~~5.03.2.3 — How the alleged violation occurred, including specific statements of fact describing the acts or omissions alleged to constitute a violation;~~

~~5.03.2.4 — Names of individuals who allegedly committed the violation, if known;~~

~~5.03.2.5 — Names of individuals who possess information concerning the alleged violation; and~~

~~5.03.3 The signature of the individual filing the complaint. The Office of Student Assessment shall not process anonymous reports.~~

~~5.04 While testing is ongoing, nothing in these rules prohibits a traditional public school, conversion public charter school, open enrollment public charter school or public school district from contacting the Office Student Assessment via telephone in an effort to immediately correct an alleged testing impropriety in a manner that would safeguard the validity and security of the ongoing test. The Office Student Assessment is hereby authorized to assist traditional public schools, conversion public charter schools, open enrollment public charter schools or public school districts in this manner.~~

5.01 Public school district-level personnel with knowledge of a testing impropriety, irregularity, violation, or breach of security, must notify the Division as soon as practicable.

5.02 Public school personnel with knowledge of an alleged testing impropriety, irregularity, violation, or breach of security, must contact the school administration, the district test coordinator, or the superintendent, to report the alleged act. Personnel may also contact the Division Office of Student Assessment if the alleged act concerns any of the above named district-level personnel.

5.03 The district test coordinator or other administrator with knowledge of the alleged testing impropriety, irregularity, violation, or breach of security:

5.03.1 Must document the incident;

5.03.2 May gather evidence or statements from those involved;

- 5.03.3 Must contact the Division Office of Student Assessment via telephone to report the incident or to attempt to immediately correct a ~~alleged~~ testing impropriety, irregularity, violation, or breach of security, in a manner that would safeguard the validity and security of the ongoing test; and
- 5.03.4 May be required to file a written, signed report with the ~~department~~ Division.
- 5.04 Any public school personnel or individual with knowledge of an alleged testing impropriety, irregularity, violation, or breach of security, may file a report with the Office of Student Assessment.
- 5.05 Public school district personnel may complete the District/School Testing Violation Report form ~~that can be found on the ADE~~ available on the Division's website.
- 5.06 Any other organization or individual may complete the Individual Testing Violation Report form ~~found on the ADE~~ available on the Division's website.
- 5.07 All violation reports should be filed immediately, but no later than fourteen (14) days after the reporting party became aware of the alleged testing impropriety, irregularity, violation, or breach of security.
- 5.08 Violation reports must be submitted in writing to the Office of Student Assessment to the attention of the Assessment Director.
- 5.09 Written violation reports, if not ~~completing~~ submitted using the ~~ADE~~ Division's Testing Violation Report form, must include:
 - 5.09.1 A statement that conduct violating the security or confidential integrity of a test or assessment has occurred;
 - 5.09.2 Specific facts upon which the statement is based, including without limitation:
 - 5.09.2.1 When the alleged violation occurred;
 - 5.09.2.2 Where the alleged violation occurred;
 - 5.09.2.3 How the alleged violation occurred, including specific statements of fact describing the acts or omissions alleged to constitute a violation;
 - 5.09.2.4 Names of individuals who allegedly committed the violation, if known;
 - 5.09.2.5 Names of individuals who possess information concerning the alleged violation; and

5.09.2.6 The signature of the individual filing the complaint. The Office of Student Assessment shall not process anonymous reports.

5.10 While testing is ongoing, nothing in these rules prohibits public school district personnel from contacting the Office of Student Assessment via telephone in an effort to immediately correct a testing impropriety, irregularity, violation, or breach of security, in a manner that would safeguard the validity and security of the ongoing test. The Office of Student Assessment is authorized to assist public school districts in this manner.

6.00 PROCESSING A REPORT OF TESTING VIOLATIONS OR ALLEGED TESTING IMPROPRIETIES

6.01 The Office of Student Assessment of the ~~Department of Education Division~~ shall receive and review reports of alleged testing violations or testing improprieties filed pursuant to these rules.

6.02 The Director of the Office of Student Assessment, or his or her designee, shall conduct an initial review of each report, ~~and determine whether the report should be processed according to these rules or forwarded to the Professional Licensure Standards Board for disposition. Accordingly, the Director of the Office of Student Assessment, or his or her designee, may:~~

6.02.1 ~~Forward reports involving alleged testing improprieties committed by a licensed administrator or teacher that involve a potential violation of the Code of Ethics for Arkansas Educators to the Professional Licensure Standards Board for processing under the procedures of the Professional Licensure Standards Board by completing the Professional Licensure Standards Board complaint form and attaching the report thereto; The Director may, as part of the initial review, request additional information or documentation from the district superintendent or district test coordinator, and determine what actions have been taken by the district with respect to the alleged testing violations or testing improprieties.~~

6.02.2 ~~For alleged testing improprieties that do not involve potential violations of the Code of Ethics for Arkansas Educators pursuant to Section 6.02.1 of these rules, the Office of Student Assessment may recommend to the State Board of Education the imposition of the sanctions set forth in Sections 4.05.1 through 4.05.6 of these rules; or After the Director's initial review, he or she will appoint a committee of Division staff to conduct a review of all reports of alleged testing violations or testing improprieties and any additional documentation submitted. The committee will categorize each reported alleged testing violation and testing impropriety into one of the following stages:~~

6.02.2.1 Stage 1: Testing violations and testing improprieties that do not breach the security or confidentiality of the assessment or influence the validity of student performance on the assessment. These testing violations are typically procedural in nature and are able to be corrected at the time of testing with no likelihood that the incident would reoccur during the remaining test administration window.

6.02.2.2 Stage 2: Testing violations and testing improprieties that depart from the administration requirements of the assessment, may impact the security of the assessment, the confidentiality of student data, or the reports of student performance, but are not found to be egregious or intentional. These testing violations are generally the result of unintentional human error, inattention during test preparation or administration, insufficient test monitoring, lack of training, and include other violations that may not impact the security of the assessment or adversely affect the performance of students. These violations are able to be corrected at the local level.

6.02.2.3 Stage 3: Testing violations and testing improprieties that result from failure to follow the required procedures for testing, failure to follow the requirements of the Security Agreement, or other actions that may violate the security of the assessment or inappropriately influence student performance or the reporting of student performance or a pattern of stage 1 or 2 testing violations within a public school or across schools in a district.

6.02.2.4 Stage 4: Testing violations and testing improprieties that violate the security of the assessment or influence student performance or the validity of the reports, show intentional or egregious disregard for the established test administration procedures, 3 or more years of stage 3 violations without correction(s), and action(s) associated with testing that are a direct violation of the Educator Code of Ethics.

~~6.02.3 Informally and administratively dispose of an alleged testing impropriety if the impropriety can be fully corrected during the testing process without adversely impacting the validity and security of the ongoing test.~~

6.03 Reported alleged testing violations and testing improprieties shall be recommended for disposition as follows:

- 6.03.1 Stage 1: These reports are informally and administratively processed by the Division's Office of Student Assessment and no further action will be required.
- 6.03.2 Stage 2: The superintendent will receive a letter from the Division's Office of Student Assessment requiring the district to develop and implement procedures to ensure the violation does not reoccur. The superintendent may be required to complete an affidavit to ensure the local plan will be developed and implemented the next school year. Additional sanctions may be imposed.
- 6.03.3 Stage 3: The superintendent will receive a letter from the Division's Office of Student Assessment requiring the district to develop a plan that includes procedures and training to ensure that violations do not occur in the future. The plan must be developed and sent to the Office of Student Assessment for approval within 45 days of the receipt of the letter. The approved plan must be implemented and evidence of its implementation provided to the Division. Additional sanctions, including without limitation, a letter of reprimand to be placed in an individual's employee record, may be imposed.
- 6.03.4 Stage 4: These reports shall be referred by the Director of the Office of Student Assessment or his or her designee to the appropriate authorized entity for processing under the procedures of that entity:
- Professional Licensure Standards Board
 - Charter Authorizing Panel
 - State Board of Education
 - Division of Public School Accountability
- 6.04 Within twenty (20) days of receiving the recommended disposition of the Office of Student Assessment, the superintendent of the public school district, or accused licensee, shall notify, in writing, the Office of Student Assessment whether the public school district, or accused licensee, agrees with the recommended disposition or wishes to appeal the recommended disposition to the State Board of Education.
- 6.04.1 Failure of a public school district or accused licensee to respond to the Office of Student Assessment's recommended disposition within twenty (20) days shall constitute a waiver of the right to appeal such recommended disposition.

- 6.04.2 Requests for appeal of the recommended disposition to the State Board of Education shall include a brief statement of the reasons why the recommended disposition should not be adopted.
- 6.04.3 If a public school district or accused licensee does not appeal the recommended disposition of the Office of Student Assessment, or does not file such an appeal within twenty (20) days, the recommendation of the Office of Student Assessment shall become final.
- 6.04.4 If a public school district, open-enrollment public charter school, or accused licensee appeals the recommended disposition of the Office of Student Assessment, the State Board of Education shall hear the appeal within sixty (60) days of receipt of the notice of appeal. Through mutual agreement, the public school district, open-enrollment public charter school, or accused licensee, and the Office of Student Assessment may extend the date of the hearing for an additional thirty (30) days.
- 6.04.5 Upon written request by an accused licensee, the public school district or open-enrollment public charter school may respond to all inquiries and allegations on behalf of the accused licensee and may represent the accused licensee at all hearings before the State Board of Education.
- ~~6.03 — Alleged testing irregularities concerning licensed administrators and teachers referred to the Professional Licensure Standards Board by the Office of Student Assessment will be processed by the Professional Licensure Standards Board in accordance with the procedures adopted by the Professional Licensure Standards Board and the State Board of Education.~~
- ~~6.04 — All other alleged testing irregularities shall be processed in the following manner:~~
 - ~~6.04.1 Within twenty one (21) days of receiving a report of an alleged testing impropriety, the Office of Student Assessment shall forward the report to the superintendent of the public school district or open-enrollment public charter school and to any licensed administrator or teacher who is alleged to have committed a violation pursuant to these rules (“accused licensee”).~~
 - ~~6.04.2 Within forty five (45) days of receiving a report of an alleged testing impropriety from the Office of Student Assessment, the superintendent of the public school district or open-enrollment public charter school, or accused licensee, shall respond, in writing, to the Office of Student Assessment, indicating the following:~~
 - ~~6.04.2.1 — Whether the school district or open-enrollment public charter school investigated the report. If the school district~~

~~or open-enrollment public charter school investigated the report, a copy of the report of investigation shall be attached to the response;~~

~~6.04.2.2 — Whether the report is founded or unfounded in whole or in part; and~~

~~6.04.2.3 — If founded in whole or in part, the actions taken by the public school district or open-enrollment public charter school in response to the report.~~

~~6.04.3 If the Office of Student Assessment requires additional information from the public school district, open-enrollment public charter school, or accused licensee, the Office of Student Assessment may request, in writing, such additional information from the public school district, open-enrollment public charter school, or accused licensee. The request for additional information must specifically list the additional information requested and must be provided to the superintendent of the public school district or open-enrollment public charter school, or accused licensee.~~

~~6.04.4 The public school district, open-enrollment public charter school, or accused licensee, shall respond to the request for additional information within thirty (30) days of receiving the request from the Office of Student Assessment or indicate its refusal to respond.~~

~~6.04.5 Within sixty (60) days of receiving all required information from the public school district, open-enrollment public charter school, or accused licensee, the Office of Student Assessment shall notify, in writing, the superintendent of the public school district, open-enrollment public charter school, or accused licensee, of its recommended disposition. The recommended disposition from the Office of Student Assessment may state the following:~~

~~6.04.5.1 — The complaint is unfounded and the case should be closed;~~

~~6.04.5.2 — The complaint is founded but no further corrective action is necessary; or~~

~~6.04.5.3 — The complaint is founded and the Office of Student Assessment recommends one or more of the following to the State Board of Education:~~

~~6.04.5.3.1 — That the State Board of Education should revoke, suspend or place on probation an individual's license;~~

- ~~6.04.5.3.2 — That the State Board of Education should issue a letter of reprimand to a licensed individual to be placed in his or her state professional licensure file;~~
- ~~6.04.5.3.3 — That the State Board of Education require a licensed individual to complete additional training or professional development within the time specified;~~
- ~~6.04.5.3.4 — That the State Board of Education require the public school district or open enrollment public charter school to administer additional professional development to all licensed personnel involved in test administration within the time specified;~~
- ~~6.04.5.3.5 — That the State Board of Education issue a letter of warning to the public school district or open enrollment public charter school;~~
- ~~6.04.5.3.6 — That the State Board of Education require a public school district or open enrollment public charter school to establish a plan that contains strict test security guidelines that will implement procedures to ensure the security and confidential integrity of all assessment instruments; or~~
- ~~6.04.5.3.7 — A combination of the above.~~
- ~~6.04.6 — Within thirty (30) days of receiving the recommended disposition of the Office of Student Assessment, the superintendent of the public school district or open enrollment public charter school, or accused licensee, shall notify, in writing, the Office of Student Assessment whether the public school district, open enrollment public charter school, or accused licensee agrees with the recommended disposition or wishes to appeal the recommended disposition to the State Board of Education.~~
- ~~6.04.6.1 — Failure of a public school district, open enrollment public charter school, or accused licensee to respond to the Office of Student Assessment's recommended disposition within thirty (30) days shall constitute a waiver of the right to appeal such recommended disposition.~~

~~6.04.6.2 — Requests for appeal of the recommended disposition to the State Board of Education shall include a brief statement of the reasons why the recommended disposition should not be adopted.~~

~~6.04.7 If a public school district, open-enrollment public charter school, or accused licensee does not appeal the recommended disposition of the Office of Student Assessment, or does not file such an appeal within thirty (30) days, the recommendation of the Office of Student Assessment shall become final.~~

~~6.04.8 If a public school district, open-enrollment public charter school, or accused licensee appeals the recommended disposition of the Office of Student Assessment, the State Board of Education shall hear the appeal within sixty (60) days of receipt of the notice of appeal. Through mutual agreement, the public school district, open-enrollment public charter school, or accused licensee and the Office of Student Assessment may extend the date of the hearing for an additional thirty (30) days.~~

~~6.04.9 Upon written request by an accused licensee, the public school district or open-enrollment public charter school may respond to all inquiries and allegations on behalf of the accused licensee and may represent the accused licensee at all hearings before the State Board of Education.~~

7.00 STATE BOARD HEARING PROCEDURES

7.01 The following procedures shall apply to State Board of Education hearings of an appeal:

~~7.01.1 Each party will have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the representative of the Department of Education. The Chairperson of the State Board of Education may, only for good cause shown and upon the request of either party, allow either party additional time to present their opening statements. Documentation for consideration by the State Board during the appeal hearing shall be submitted to the Division no later than fifteen (15) days prior to the date of the hearing.~~

~~7.01.2 Each party will be given thirty (30) twenty (20) minutes to present their cases, beginning with the representative of the Department of Education Division. The Chairperson of the State Board of Education may, only for good cause shown and upon the request of either party, allow either party additional time to present their cases.~~

~~7.01.3 Every witness giving oral testimony must be sworn under oath by the court reporter and shall be subject to direct examination, cross~~

examination, and questioning by the State Board of Education. All persons wishing to testify before the State Board shall first be placed under oath by the Chairperson of the State Board.

7.01.4 For the purposes of the record, documents offered during the hearing by the Department of Education shall be clearly marked in sequential, numeric order (1, 2, 3). The State Board shall then discuss, deliberate, and vote upon the matter of the classification.

7.01.5 The State Board of Education may:

7.01.5.1 Adopt the recommended disposition of the Office of Student Assessment;

7.01.5.2 Modify the recommended disposition of the Office of Student Assessment; or

7.01.5.3 Grant the appeal of the public school district or accused licensee.

7.01.56 For the purposes of the record, documents offered during the hearing by the appealing public school district, open enrollment public charter school or accused licensee shall be clearly marked in sequential, alphabetic letters (A, B, C). If it deems necessary, the State Board may take the matter under advisement and announce its decision at a later date, provided that all discussions, deliberations, and votes upon the matter take place at a public hearing.

7.01.67 The Department of Education shall have the burden of proving, by a preponderance of the evidence, that the alleged violation(s) occurred and that the recommended disposition from the Office of Student Assessment be adopted. The State Board shall issue a written order concerning the matter.

7.02 The State Board of Education may:

7.02.7.1 Adopt the recommended disposition of the Office of Student Assessment;

7.02.7.2 Modify the recommended disposition of the Office of Student Assessment in accordance with Sections 4.05.1 through 4.05.6 of these rules; or

7.02.7.3 Grant the appeal of the public school district, open enrollment public charter school or accused licensee.

~~7.03 — The State Board of Education may announce its decision immediately after hearing all arguments and evidence or may take the matter under advisement. The State Board of Education shall provide a written decision to the Department of Education and each appealing party within fourteen (14) days of the hearing.~~

1 State of Arkansas

As Engrossed: S3/20/17

2 91st General Assembly

A Bill

3 Regular Session, 2017

SENATE BILL 647

5 By: Senator J. English

6 By: Representative Cozart

For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE
10 CONCERNING THE PUBLIC SCHOOL STATE ACCOUNTABILITY
11 SYSTEM; AND FOR OTHER PURPOSES.

Subtitle

15 TO AMEND PROVISIONS OF THE ARKANSAS CODE
16 CONCERNING THE PUBLIC SCHOOL STATE
17 ACCOUNTABILITY SYSTEM.

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

22 *SECTION 1. Arkansas Code Title 6, Chapter 15, Subchapter 4, is*
23 *repealed.*

24 ~~*Subchapter 4—Arkansas Comprehensive Testing, Assessment, and Accountability*~~
25 ~~*Program Act*~~

27 ~~*6-15-401. Title.*~~

28 ~~*This subchapter shall be known as and may be cited as the “Arkansas*~~
29 ~~*Comprehensive Testing, Assessment, and Accountability Program Act”.*~~

31 ~~*6-15-402. Purpose.*~~

32 ~~*(a)(1)(A) The purpose of this subchapter is to provide the statutory*~~
33 ~~*framework necessary to ensure that all students in the public schools of this*~~
34 ~~*state have an equal opportunity to demonstrate grade-level academic*~~
35 ~~*proficiency through the application of knowledge and skills in core academic*~~
36 ~~*subjects consistent with state curriculum frameworks, performance standards,*~~



1 ~~and assessments.~~

2 ~~(B)(i) The State of Arkansas recognizes and declares that~~
3 ~~students who are not performing at grade-level standards of academic~~
4 ~~proficiency are especially harmed by social promotion because they are not~~
5 ~~equipped with the necessary academic skills to be successful and productive~~
6 ~~members of society.~~

7 ~~(ii) For this reason, the Arkansas Comprehensive~~
8 ~~Testing, Assessment, and Accountability Program will emphasize point-in-time~~
9 ~~intervention and remediation upon the discovery that any student is not~~
10 ~~performing at grade level.~~

11 ~~(C) The state is committed to all students having the~~
12 ~~opportunity to perform at their age-appropriate grade level and beyond.~~

13 ~~(2)(A) This subchapter is constructed around a system that~~
14 ~~includes statewide indicators, individual school improvement indicators, and~~
15 ~~a locally generated school accountability narrative.~~

16 ~~(B) The total program shall be applied to each school in~~
17 ~~the state public school system.~~

18 ~~(3) This subchapter is designed to be a multiyear commitment to~~
19 ~~assess the academic progress and performance of Arkansas's public school~~
20 ~~students, classrooms, schools, and school districts.~~

21 ~~(4)(A) It shall also be the purpose of this subchapter to:~~

22 ~~(i) Provide information needed to improve the public~~
23 ~~schools by measuring annual learning gains of all students through~~
24 ~~longitudinal tracking and analysis of value-added computations of student~~
25 ~~gains against a national cohort to inform parents of the educational progress~~
26 ~~of their public school children; and~~

27 ~~(ii) Inform the public of the performance of~~
28 ~~schools.~~

29 ~~(B) The program shall be designed to:~~

30 ~~(i) Assess the annual learning gains of each student~~
31 ~~toward achieving the academic content standards appropriate for the student's~~
32 ~~grade level;~~

33 ~~(ii) Provide data for building effective staff~~
34 ~~development programs and school accountability and recognition;~~

35 ~~(iii) Identify the educational strengths and~~
36 ~~weaknesses of students and help the teacher tailor instruction to the needs~~

~~of the individual student;~~

~~(iv) Assess how well academic goals and performance standards are met at the classroom, school, school district, and state levels;~~

~~(v) Provide information to aid in the evaluation and development of educational programs and policies;~~

~~(vi) Provide information on the performance of Arkansas students compared with other students from across the United States; and~~

~~(vii) Identify best practices and schools that are in need of improving their practices.~~

~~(b) The purposes of the assessment and accountability program developed under this subchapter shall be to:~~

~~(1) Improve student learning and classroom instruction;~~

~~(2) Provide public accountability by:~~

~~(A) Mandating expected achievement levels;~~

~~(B) Reporting on school and school district performance;~~

~~and~~

~~(C) Applying a framework for state action for a school or school district that fails expected achievement levels as defined in the Arkansas Comprehensive Testing, Assessment, and Accountability Program rules and regulations; and~~

~~(3) Provide evaluation data of school and school district performance in order to assist policymakers at all levels in decision making.~~

~~(c) The priorities of the assessment and accountability program developed pursuant to the provisions of this subchapter shall include:~~

~~(1) All students to have an opportunity to demonstrate increased learning and completion at all levels, to graduate from high school, and to enter postsecondary education or the workforce without remediation;~~

~~(2) Students to demonstrate that they meet the expected academic standards consistently at all levels of their education;~~

~~(3) Academic standards for every level of the grades kindergarten through twelve (K-12) education system to be aligned and education financial resources to be aligned with student performance expectations at each level of the grades kindergarten through twelve (K-12) education system; and~~

~~(4) The quality of educational leadership at all levels of grades kindergarten through twelve (K-12) education to be improved.~~

~~6-15-403. Authority of State Board of Education.~~

~~(a) The State Board of Education through the Department of Education shall:~~

~~(1) Develop a single comprehensive testing, assessment, and accountability program which utilizes the most current and effective testing, evaluation, and assessment research information designed to achieve the following purposes set forth in this subchapter:~~

~~(A) Set clear academic standards that are periodically reviewed and revised;~~

~~(B) Establish professional development;~~

~~(C) Establish expected achievement levels;~~

~~(D) Report on student achievement and other indicators;~~

~~(E) Provide evaluation data;~~

~~(F) Recognize academic excellence and failure;~~

~~(G) Apply awards and sanctions; and~~

~~(H) Comply with current federal and state law and state board rules and regulations;~~

~~(2) Promulgate rules and regulations as may be necessary to develop and implement the comprehensive testing, assessment, and accountability program;~~

~~(3) Employ staff and enter into contracts as may be necessary to carry out the provisions of this subchapter;~~

~~(4) Classify school services, designate the licensure subject areas, establish competencies, including the use of technology to enhance student learning and licensure requirements for all school-based personnel, and prescribe rules in accordance with initial, standard, and provisional licenses;~~

~~(5) Identify critical teacher shortage areas; and~~

~~(6) Collect and maintain the management information databases for all components of the public kindergarten through grade twelve (K-12) education system.~~

~~(b) To transition to and implement the Common Core State Standards, the State Board of Education may:~~

~~(1) Modify curriculum and assessment requirements;~~
~~(2) Adopt new curriculum and assessment requirements; and~~
~~(3) Direct the Department of Education to:~~
~~(A) Propose to the state board rules and procedures; and~~
~~(B) Develop the professional development needed to train~~
~~educators on the transition and implementation.~~

~~6-15-404. Program implementation.~~

~~(a)(1) The State Board of Education shall establish clear, specific,~~
~~and challenging academic content standards which define what students shall~~
~~know and be able to do in each content area.~~

~~(2) Instruction in all public schools shall be based on these~~
~~academic content standards.~~

~~(b) The state board shall establish a schedule for periodic review and~~
~~revision of academic content standards to ensure that Arkansas academic~~
~~content standards are rigorous and equip students to compete in the global~~
~~workforce.~~

~~(c) The state board shall include the following elements in the~~
~~periodic review and revision of Arkansas academic content standards:~~

~~(1) External review by outside content standards experts;~~

~~(2) Review and input by higher education, workforce education,~~
~~and community members;~~

~~(3) Study and consideration of academic content standards from~~
~~across the nation and the international level as appropriate;~~

~~(4) Study and consideration of evaluation from national groups~~
~~or organizations as appropriate;~~

~~(5) Revisions by committees of Arkansas teachers and~~
~~instructional supervisor personnel from public schools, assisted by teachers~~
~~from institutions of higher education; and~~

~~(6) Public dissemination of revised academic content standards~~
~~at the state board meeting and Department of Education website.~~

~~(d) The state board shall establish a clear, concise system of~~
~~reporting the academic performance of each school on the state-mandated~~
~~assessments that conforms with the requirements of the No Child Left Behind~~
~~Act of 2001, 20 U.S.C. § 6301 et seq.~~

~~(e)(1) The state board shall develop and the department shall~~

~~1 implement a developmentally appropriate uniform school readiness screening to~~
~~2 validate a child's school readiness as part of a comprehensive evaluation~~
~~3 design.~~

~~4 (2) Beginning with the 2004-2005 school year, the department~~
~~5 shall require that all school districts administer the uniform school~~
~~6 readiness screening to each kindergarten student in the school district~~
~~7 school system upon the student's entry into kindergarten.~~

~~8 (3) Children who enter public school for the first time in first~~
~~9 grade must be administered the uniform school readiness screening developed~~
~~10 for use in the first grade.~~

~~11 (f)(1) The department shall select a developmentally appropriate~~
~~12 assessment to be administered to all students in first grade and second grade~~
~~13 in reading and mathematics.~~

~~14 (2) Professional development activities shall be tied to the~~
~~15 comprehensive school improvement plan and designed to increase student~~
~~16 learning and achievement.~~

~~17 (3) Longitudinal and trend data collection shall be maintained~~
~~18 for the purposes of improving student and school performance.~~

~~19 (4)(A) A public school or public school district classified as~~
~~20 in "school improvement" shall develop and file with the department a~~
~~21 comprehensive school improvement plan designed to ensure that all students~~
~~22 demonstrate proficiency on all portions of state-mandated assessments.~~

~~23 (B) The comprehensive school improvement plan shall~~
~~24 include strategies to address the achievement gap existing for any~~
~~25 identifiable group or subgroup as identified in the Arkansas Comprehensive~~
~~26 Testing, Assessment, and Accountability Program and the gap of that subgroup~~
~~27 from the academic standard.~~

~~28 (g)(1) The department shall develop and implement an assessment~~
~~29 program that is valid, reliable, and vertically scaled for public school~~
~~30 students in grades three through eight (3-8), which measures application of~~
~~31 knowledge and skills in reading and writing literacy and mathematics.~~

~~32 (2) Science, civics, and government shall be measured on a~~
~~33 schedule as determined by the state board.~~

~~34 (h)(1) The State of Arkansas shall participate in the administration~~
~~35 of the National Assessment of Educational Progress examinations.~~

~~36 (2)(A) Any student failing to achieve the established standard~~

~~on the Arkansas Comprehensive Assessment Program examinations shall be evaluated by school personnel, who shall jointly develop with the student's parents an academic improvement plan to assist the student in achieving the expected standard in subject areas in which performance is deficient.~~

~~(B) The academic improvement plan shall describe the parent's role and responsibilities as well as the consequences for the student's failure to participate in the plan.~~

~~(i)(1) Each school shall develop one (1) comprehensive, long-range school improvement plan focused on student achievement which shall be reported to the public.~~

~~(2)(A)(i) Any school that fails to achieve expected levels of student performance on the Arkansas Comprehensive Assessment Program examinations and related indicators, as defined in this subchapter, shall participate in a school improvement plan accepted by the department.~~

~~(ii) This improvement plan shall assist those students performing below grade level in achieving the expected standard.~~

~~(B) Progress on improved achievement shall be included as part of the school's annual report and the school district's annual report to the public.~~

~~(j)(1) The department and the local school districts shall annually compile and disseminate to the public results of all required examinations.~~

~~(2) The results of end-of-course testing shall become a part of each student's transcript or permanent record and shall be recorded on these documents in a manner prescribed by the state board.~~

~~(k)(1) Parents, students, families, educational institutions, and communities are collaborative partners in education, and each plays an important role in the success of individual students. Therefore, the State of Arkansas cannot be the guarantor of each individual student's success.~~

~~(2) The goals of Arkansas's grades kindergarten through twelve (K-12) educational system are not guarantees that each individual student will succeed or that each individual school will perform at the level indicated in the goals.~~

~~6-15-405. [Repealed.]~~

~~6-15-406. Assessment of basic skills.~~

~~The comprehensive testing, assessment, and accountability program to be developed by the Department of Education and approved by the State Board of Education shall include, but is not limited to, the following components or characteristics:~~

~~(1) Assessment of academic achievement at grade levels selected to be tested by the department;~~

~~(2) Longitudinal and trend data collection for the purposes of improving student and school performance;~~

~~(3) A variety of assessment methods;~~

~~(4) Construction of a database composed of academic performance indicators that shall apply to every school and school district in the state that will allow the department, over time, to identify those schools and school districts that are performing at or below proficient levels established under this subchapter;~~

~~(5) Meaningful comparisons of Arkansas students with those of other states, regions, and the nation through the National Assessment of Educational Progress examination and other examinations; and~~

~~(6) Review and assistance to the department in developing the comprehensive testing, assessment, and accountability program by a panel of external psychometric experts.~~

~~6-15-407. Basic competency tests generally.~~

~~(a) The "Arkansas Comprehensive Testing, Assessment, and Accountability Program" means a system of measurement and reporting designed to ensure that all students in the public schools of this state demonstrate academic achievement through the application of knowledge and skills in core academic subjects consistent with state curriculum frameworks and performance standards.~~

~~(b) Neither the program nor any other assessment or testing procedure used in the public schools shall test or assess students' religious beliefs, political beliefs, ethics, attitudes, or values.~~

~~(c) Public school testing or assessment of student self-esteem, mental health, emotional health, or home or family life shall not be permitted.~~

~~(d) The nonacademic assessment of student conduct for the purpose of encouraging good behavior and decorum at school shall be permitted.~~

~~6-15-408—6-15-413. [Repealed.]~~

~~6-15-414. Testing additional grade levels.~~

~~At the direction of the State Board of Education, the Department of Education shall cause assessment instruments to be administered at additional grade levels as may be necessary to measure educational achievement in the public schools of this state.~~

~~6-15-415. Public availability of test instruments and scores.~~

~~(a) Any material containing the identifiable scores of individual students on any test taken pursuant to the provisions of this subchapter shall not be considered a public record within the meaning of the Freedom of Information Act of 1967, § 25-19-101 et seq., and shall not be disseminated or otherwise made available to the public by any member of the State Board of Education, any employee of the Department of Education, any member of the board of directors of a school district, any employee of a school district, or any other person, except as permitted under the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g.~~

~~(b) All analyses, reports, and compilations of test scores which do not contain personal and identifiable education information shall be considered a public record within the meaning of the Freedom of Information Act of 1967, § 25-19-101 et seq.~~

~~(c) In order to protect the validity and reliability of the basic competency tests, the test instruments shall not be made available to the general public.~~

~~6-15-416—6-15-418. [Repealed.]~~

~~6-15-419. Definitions.~~

~~The following definitions shall apply in this subchapter and in § 6-15-2001 et seq., § 6-15-2101 et seq., §§ 6-15-2301, 6-15-2401, and 6-18-227:~~

~~(1) "ACT" means the ACT assessment for college placement administered by ACT, Inc.;~~

~~(2) "Academic content standards" means standards that are approved by the State Board of Education and that set the skills to be taught and mastery level for each grade and content area;~~

1 ~~(3)(A) "Academic improvement plan" means a plan detailing~~
2 ~~supplemental or intervention and remedial instruction, or both, in deficient~~
3 ~~academic areas for any student who is not proficient on a portion or portions~~
4 ~~of the state-mandated Arkansas Comprehensive Assessment Program.~~

5 ~~(B)(i) Such a plan shall be created and implemented by~~
6 ~~appropriate teachers, counselors, and any other pertinent school personnel.~~

7 ~~(ii) All academic improvement plans shall be~~
8 ~~reviewed annually and revised to ensure an opportunity for student~~
9 ~~demonstration of proficiency in the targeted academic areas on the next~~
10 ~~state-mandated Arkansas Comprehensive Assessment Program.~~

11 ~~(iii) A cumulative review of all academic~~
12 ~~improvement plans shall be part of the data used by the school in creating~~
13 ~~and revising its comprehensive school improvement plan.~~

14 ~~(iv) All academic improvement plans shall be subject~~
15 ~~to review by the Department of Education.~~

16 ~~(C) In any instance in which a student with disabilities~~
17 ~~identified under the Individuals with Disabilities Education Act, 20 U.S.C. §~~
18 ~~1400 et seq., has an individualized education program that already addresses~~
19 ~~any academic area or areas in which the student is not proficient on state-~~
20 ~~mandated assessments, the individualized education program shall serve to~~
21 ~~meet the requirement of an academic improvement plan.~~

22 ~~(4) "Adequate yearly progress" means the level of academic~~
23 ~~improvement required of public schools or school districts on the state-~~
24 ~~mandated assessments and other indicators as required in the Arkansas~~
25 ~~Comprehensive Testing, Assessment, and Accountability Program, which shall~~
26 ~~comply with the Elementary and Secondary Education Act of 1965, Pub. L. No.~~
27 ~~89-10, as reauthorized in the No Child Left Behind Act of 2001, 20 U.S.C. §~~
28 ~~6301 et seq.,~~

29 ~~(5) "Advanced placement test" means the test administered by the~~
30 ~~College Board for a high-school-level preparatory course that incorporates~~
31 ~~the topics specified by the College Board on its standard syllabus for a~~
32 ~~given subject area and is approved by the College Board.~~

33 ~~(6) "Annexation" means the joining of an affected school~~
34 ~~district or part of the school district with a receiving district under § 6-~~
35 ~~13-1401 et seq. or § 6-13-1601 et seq.,~~

36 ~~(7) "Annual performance" means the level of academic achievement~~

~~required of public schools or school districts as measured by assessments and other criteria required under the rules of the State Board of Education;~~

~~(8) "Annual student academic growth" means calculating a student's academic progress from one school year to the next, as measured by assessments and other criteria required by rule of the State Board of Education.~~

~~(9) "Arkansas Comprehensive Assessment Program" means the testing component of the Arkansas Comprehensive Testing, Assessment, and Accountability Program, which shall consist of:~~

~~(A) Developmentally appropriate assessments in kindergarten through grade twelve (K-12), as determined by the state board;~~

~~(B) Any other assessments as required by the state board;~~

~~(C) Other assessments that are based on researched best practices as determined by qualified experts that would be in compliance with federal and state law; and~~

~~(D) End-of-course examinations for designated grades and content areas;~~

~~(10) "Arkansas Comprehensive Testing, Assessment, and Accountability Program" means a system of measurement and reporting designed to ensure that all students in the public schools of this state demonstrate academic achievement through the application of knowledge and skills in core academic subjects consistent with state curriculum frameworks and performance standards;~~

~~(11) "College and career readiness measurement" means a set of criterion-referenced measurements of a student's acquisition of the knowledge and skills the student needs to be successful in future endeavors, including credit-bearing, first-year courses at a postsecondary institution, such as a two-year or four-year college, trade school, or technical school, or to embark on a career;~~

~~(12) "Comprehensive school improvement plan" means the individual school's comprehensive plan based on priorities indicated by assessment and other pertinent data and designed to provide an opportunity for all students to demonstrate proficiency on all portions of the state-mandated Arkansas Comprehensive Assessment Program;~~

~~(13) "Consolidation" means the joining of two (2) or more school districts or parts of the school districts to create a new single school~~

~~district under § 6-13-1401 et seq. or § 6-13-1601 et seq.;~~

~~(14)(A) "District improvement plan" means a districtwide plan coordinating the actions of the various comprehensive school improvement plans within a school district.~~

~~(B) The main focus of the district improvement plan shall be to ensure that all students demonstrate proficiency on all portions of the state-mandated Arkansas Comprehensive Assessment Program;~~

~~(15)(A) "Early intervention" means short term, intensive, focused, individualized instruction developed from ongoing, daily, systematic diagnosis that occurs while a child is in the initial, kindergarten through grade one (K-1) stages of learning early reading, writing, and mathematical strategies to ensure acquisition of the basic skills and to prevent the child from developing poor problem-solving habits that become difficult to change.~~

~~(B) The goal is to maintain a student's ability to function proficiently at grade level;~~

~~(16) "End-of course assessment" means a criterion-referenced assessment taken during a course of study set by the State Board of Education;~~

~~(A) To determine whether a student demonstrates, according to a requisite scale score established by rule of the state board, attainment of sufficient knowledge and skills to indicate a necessary and satisfactory mastery of the subject level content in that end-of course assessment; and~~

~~(B) For which failure to meet that requisite scale score requires sufficient remediation before a student is entitled to receive full academic credit for the course;~~

~~(17) "Grade inflation rate" means the statistical gap between actual grades assigned for core classes at the secondary level and student performance on corresponding subjects on nationally normed college entrance exams such as the ACT;~~

~~(18) "Grade level" means performing at the proficient or advanced level on state-mandated Arkansas Comprehensive Assessment Program tests;~~

~~(19) "High school" means grades nine through twelve (9-12);~~

~~(20) "International Baccalaureate assessment" means an assessment administered by the International Baccalaureate Organization for a course offered under the International Baccalaureate Diploma Programme;~~

~~(21) "Longitudinal tracking" means tracking individual student yearly academic achievement gains based on scheduled and annual assessments;~~

~~(22) "Middle level" means grades five through eight (5-8);~~

~~(23) "No Child Left Behind Act" means the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq., signed into federal law on January 8, 2002;~~

~~(24) "Parent" means:~~

~~(A) A parent, parents, legal guardian, a person standing in loco parentis, or legal representative, as appropriate, of a student; or~~

~~(B) The student if the student is eighteen (18) years of age or older;~~

~~(25) "Point-in-time intervention and remediation" means intervention and remediation applied during the academic year upon the discovery that a student is not performing at grade level;~~

~~(26) "Primary" means kindergarten through grade four (K-4);~~

~~(27) "Public school" means those schools or school districts created pursuant to this title of the Arkansas Code and subject to the Arkansas Comprehensive Testing, Assessment, and Accountability Program except specifically excluding those schools or educational programs created by or receiving authority to exist under § 6-15-501, § 9-28-205, § 12-29-301 et seq., or other provisions of Arkansas law;~~

~~(28) "Public school in school improvement" or "school in need of immediate improvement" means any public school or public school district identified as failing to meet certain established levels of academic achievement on the state-mandated augmented, criterion-referenced, or norm-referenced assessments as required by the state board in the program;~~

~~(29) "Reconstitution" means a reorganization intervention in the administrative unit or governing body of a public school district, including without limitation the suspension, reassignment, replacement, or removal of a current superintendent or the suspension, removal, or replacement of some or all of the current school district board members, or both;~~

~~(30)(A)(i) "Remediation" means a process of using diagnostic instruments to provide corrective, specialized, supplemental instruction to help a student in grades two through four (2-4) overcome academic deficiencies.~~

~~(ii) For students in grades five through twelve (5-~~

~~12), remediation shall be a detailed, sequential set of instructional strategies implemented to remedy any academic deficiencies indicated by below-basic or basic performance on the state-mandated augmented, criterion-referenced, or norm-referenced assessments.~~

~~(B) Remediation shall not interfere with or inhibit student mastery of current grade level academic learning expectations;~~

~~(31) "SAT" means the college entrance examination known as the "Scholastic Assessment Test" administered by the College Board;~~

~~(32) "School or school district in academic distress" means a public school or school district failing to meet the minimum level of academic achievement on the state-mandated assessments as required by the state board in the program;~~

~~(33) "School improvement plan" means the individual school's comprehensive plan based on priorities indicated by assessment and other pertinent data and designed to ensure that all students demonstrate proficiency on all portions of the state-mandated Arkansas Comprehensive Assessment Program examinations;~~

~~(34) "Social promotion" means the passage or promotion from one (1) grade to the next of a student who has not demonstrated knowledge or skills required for grade-level academic proficiency;~~

~~(35) "Uniform school readiness screening" means uniform, objective evaluation procedures that are geared to either kindergarten or first grade, as appropriate, and developed by the state board and specifically formulated for children entering public school for the first time; and~~

~~(36) "Value-added computations of student gains" means the statistical analyses of the educational impact of the school's instructional delivery system on individual student learning, using a comparison of previous and posttest student achievement gains against a national cohort.~~

~~6-15-420. Remediation and intervention.~~

~~(a) In order for students to be academically prepared to achieve proficiency in English language arts and mathematics, the Department of Education shall require each public school serving students in kindergarten through grade four (K-4) to develop, select, and implement ongoing, informal assessments corresponding to the Common Core State Standards.~~

~~(b)(1)(A) Any student in kindergarten through grade one (K-1) failing to perform at the proficient level in reading and writing literacy or mathematics shall be evaluated as early as possible within each of the kindergarten through grade one (K-1) academic years.~~

~~(B) Those students shall be evaluated by personnel with expertise in reading and writing literacy or mathematics who shall develop and implement an academic improvement plan, using early intervention strategies sanctioned by the department, to assist the student in achieving the expected standard.~~

~~(2) Any student in grades two through four (2-4) failing to perform at the proficient level in reading and writing literacy or mathematics shall be evaluated by personnel with expertise in reading and writing literacy or mathematics who shall develop and implement an academic improvement plan, using remediation strategies sanctioned by the department, to assist the student in achieving the expected standard.~~

~~(c)(1) Upon completion of the intervention and remediation plans in subdivisions (b)(1) and (2) of this section, those schools that fail to achieve expected levels of student performance at the primary level on augmented, criterion-referenced, or norm-referenced assessments, as defined in this subchapter, shall participate in a comprehensive school improvement plan accepted by the department.~~

~~(2)(A) This plan shall be part of each school's long-range comprehensive school improvement plan and shall be reported to the public.~~

~~(B) Progress on improved achievement shall be included as part of the school and school district's annual report to the public.~~

~~(d)(1) As part of the Arkansas Comprehensive Testing, Assessment, and Accountability Program, the department shall ensure that each school and school district establishes a plan to assess whether children in the middle-level and high school grades are performing at proficient levels in reading and writing literacy, mathematics, and, as funds are available, other core academic subjects.~~

~~(2) Each school and school district shall use multiple assessment measures, which shall include, but not be limited to, state-mandated assessments.~~

~~(e) Any student failing to demonstrate a proficient level of achievement in reading and writing literacy, mathematics, or, as funds are~~

~~available, other core academic subjects shall participate in an individual academic improvement plan specifically designed to achieve proficient level performance standards in these areas.~~

~~6-15-421. Awards and sanctions.~~

~~(a) The Department of Education is authorized to develop and implement, contingent upon appropriation and funding being provided by the General Assembly, a program of rewards to recognize individual schools that demonstrate exceptional performance in levels of student achievement and to recognize schools that demonstrate significant improvement in student achievement.~~

~~(b)(1)(A) Each school that does not attain the expected levels of student performance on state-mandated indicators and individual school improvement indicators shall be designated by one (1) of several levels of sanction.~~

~~(B) Each level of sanction shall determine specific interventions to be provided to the students of public schools or public school districts by the department.~~

~~(2) The levels of sanction developed under The Omnibus Quality Education Act of 2003, Acts 2003, No. 1467, shall be incorporated into the existing comprehensive school improvement plan.~~

~~(c) The State Board of Education shall develop a clear, concise system of reporting the academic performance of each public school on the state-mandated assessments, developmentally appropriate assessments for grades kindergarten through two (K-2), benchmark examinations, and end-of-course examinations, which conforms with current state and federal law.~~

~~(d)(1)(A) Within thirty (30) days of a student's completing a course for which the state board has adopted an end-of-course assessment, the school district shall provide the Division of Public School Accountability of the Department of Education with each student's name, identification number, and grade in the course.~~

~~(B) The division shall:~~

~~(i) Match each student's end-of-course test score with the letter grade received in the corresponding course;~~

~~(ii) Report each student's end-of-course test score matched with the letter grade the student received in the corresponding~~

~~course to the school district;~~

~~(iii) Create a report of the percentage of students who received a letter grade of "B" or above in the corresponding course and passed the end-of-course assessment on his or her first attempt; and~~

~~(iv) Create a report of the percentage of students who received a letter grade of "B" or above in the corresponding course and did not pass the end-of-course assessment on the first attempt.~~

~~(2)(A) No later than December 1 of each year, the division shall report to the state board and the General Assembly the name, address, and superintendent of any high school in which more than twenty percent (20%) of the students received a letter grade of "B" or above but did not pass the end-of-course assessment on the first attempt.~~

~~(B) The report shall indicate by high school the number of students receiving a letter grade of "B" or above in the corresponding course who did not pass the end-of-course assessment on the first attempt, provided such disclosure is not in conflict with applicable federal or state law.~~

~~(3) The department shall:~~

~~(A) Investigate the classroom practices of any school district in which more than twenty percent (20%) of the students received a letter grade of "B" or above but did not pass the end-of-course assessment on the first attempt; and~~

~~(B) Make in written form to the superintendent and local school district board of directors any recommendations or changes that would improve classroom instruction and student performance on end-of-course assessments.~~

~~(4) As a part of the school improvement plan pursuant to § 6-15-2201, the state board shall ensure that each school district and high school develops strategies to improve student readiness for the public postsecondary level based on annual analysis of the feedback report data.~~

~~(5) The department shall biennially recommend to the General Assembly statutory changes to reduce the incidence of postsecondary remediation in mathematics, reading, and writing for recent high school graduates who enroll in an institution of higher education.~~

~~(e) The state board, through the department, is hereby authorized to promulgate rules and regulations as may be necessary to carry out the provisions of this subchapter.~~

~~6-15-422. Comprehensive Testing, Assessment, and Accountability Program progress report.~~

~~The Department of Education shall report to the members of the House Committee on Education and the Senate Committee on Education on the progress of the Arkansas Comprehensive Testing, Assessment, and Accountability Program. The report shall be due on September 1, 1999, and annually thereafter.~~

~~6-15-423. [Repealed.]~~

~~6-15-424. Rules.~~

~~The State Board of Education shall establish rules as may be necessary to require the Department of Education to implement a program for identifying, evaluating, assisting, and addressing public schools or public school districts failing to meet established levels of academic achievement on the state-mandated assessments as required in the Arkansas Comprehensive Testing, Assessment, and Accountability Program.~~

~~6-15-425. School improvement or academic distress.~~

~~A public school or school district identified by the Department of Education as failing to meet established levels of academic achievement shall be classified as being in:~~

~~(1) School improvement as required by the Arkansas Comprehensive Testing, Assessment, and Accountability Program, § 6-15-401 et seq., rules and regulations;~~

~~(2) Academic distress as required under §§ 6-15-428 — 6-15-431;~~
~~or~~

~~(3) Both, as required by the applicable program rules and regulations.~~

~~6-15-426. School improvement.~~

~~(a) The State Board of Education shall develop a single comprehensive testing, assessment, and accountability program which shall identify and address all public schools or public school districts in school improvement or academic distress and shall be incorporated into the Arkansas~~

1 ~~Comprehensive Testing, Assessment, and Accountability Program rules and~~
2 ~~regulations which shall comply with the Elementary and Secondary Education~~
3 ~~Act of 1965, Pub. L. No. 89-10, as reauthorized by the No Child Left Behind~~
4 ~~Act of 2001, 20 U.S.C. § 6301 et seq.~~

5 ~~(b) The school district board president and the superintendent of a~~
6 ~~public school or school district identified by the Department of Education as~~
7 ~~being classified as in-school improvement shall be notified of the~~
8 ~~classification in writing by the department via certified mail, return~~
9 ~~receipt requested, and the school district shall have a right of appeal~~
10 ~~pursuant to the program rules and regulations which shall comply with the No~~
11 ~~Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq.~~

12 ~~(c) The single comprehensive testing, assessment, and accountability~~
13 ~~program shall require that any public school or school district in school~~
14 ~~improvement that fails to make adequate yearly progress as required in the~~
15 ~~single comprehensive testing, assessment, and accountability program may,~~
16 ~~after being afforded all due process rights and in a timely manner required~~
17 ~~under the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq., be~~
18 ~~advanced by the state board to the corrective action or restructuring phase~~
19 ~~of the single comprehensive testing, assessment, and accountability program~~
20 ~~adopted in the single comprehensive testing, assessment, and accountability~~
21 ~~program rules and regulations.~~

22 ~~(d) Any public school or school district classified in school~~
23 ~~improvement shall comply with all requirements placed on a public school or~~
24 ~~school district under the single comprehensive testing, assessment, and~~
25 ~~accountability program rules and regulations as required by the No Child Left~~
26 ~~Behind Act of 2001, 20 U.S.C. § 6301 et seq.~~

27 ~~(e) Each public school or school district shall develop and file with~~
28 ~~the department a comprehensive school improvement plan which shall be~~
29 ~~reviewed by the department and shall be designed to ensure that all students~~
30 ~~have an opportunity to obtain an adequate education and demonstrate~~
31 ~~proficiency on all portions of the state-mandated assessments.~~

32 ~~(f)(1) The comprehensive school improvement plan shall be based on an~~
33 ~~analysis of student performance data and other relevant data that provide a~~
34 ~~plan of action to address deficiencies in student performance and any~~
35 ~~academic achievement gap evidenced in the Arkansas Comprehensive Testing,~~
36 ~~Assessment, and Accountability Program.~~

~~(2) The comprehensive school improvement plan shall include a general description of the public school or school district's use of categorical funding for:~~

~~(A) Alternative learning environments;~~

~~(B) Professional development;~~

~~(C) English language learners; and~~

~~(D) National school lunch students, as defined by § 6-20-2303(12)(A).~~

~~(g) Any public school or school district classified as in school improvement under § 6-15-425 shall, with the assistance of the department, develop and file with the department a revised comprehensive school improvement plan meeting the requirements of this section and containing any additional requirements determined necessary by the department to ensure that all students in the public school or school district have an opportunity to demonstrate proficiency on all portions of the state-mandated assessments.~~

~~(h) At the end of each school year, the school district shall assess the effectiveness of an intervention or other action included in the comprehensive school improvement plan in improving student performance and include the assessment in the comprehensive school improvement plan for the following school year.~~

~~(i)(1) The department shall monitor each public school's and school district's compliance regarding its comprehensive school improvement plan.~~

~~(A) [Repealed.]~~

~~(B) [Repealed.]~~

~~(2) As part of the monitoring process under this subsection, the department shall evaluate the research cited by the public school or school district in its comprehensive school improvement plan in support of the proposed interventions and actions to assess its independence and empirical support for the effectiveness of the single comprehensive testing, assessment, and accountability program.~~

~~(3) The department shall use the information obtained through monitoring comprehensive school improvement plans under this section to:~~

~~(A) Determine the compliance of the public school or school district with this subchapter;~~

~~(B) Evaluate whether the assessment conducted by the~~

~~public school or school district under subsection (h) of this section was conducted properly; and~~

~~(G) Assess the areas in which the public school or school district needs to revise its plan.~~

~~(j) The state board shall incorporate the provisions of subsections (f) (i) of this section into its rules for comprehensive school improvement plans and may amend those rules in the same manner as provided by law for other rules established by the state board.~~

~~6-15-427. School district testing programs.~~

~~(a) Each school district board of directors shall annually provide a written evaluation of student performance and achievement within each school of the school district.~~

~~(b) This evaluation and suggested measures to improve performance shall be presented in a public hearing in the same locality as the school district and submitted with comments made at the public hearing to the Department of Education.~~

~~6-15-428. Academic distress identification, notification, classification, and appeal.~~

~~(a) The school district board president and superintendent of a school district in which the school district or a public school is identified by the Department of Education as being in academic distress shall be notified in writing by the department via certified mail, return receipt requested, and shall have a right of appeal to the State Board of Education.~~

~~(b) Any school district identified or in which a public school is identified in academic distress may appeal to the state board by filing a written appeal with the Commissioner of Education via certified mail, return receipt requested, within thirty (30) calendar days of receipt of the written notice of academic distress status from the department.~~

~~(c)(1) The state board shall hear the appeal of the school district within sixty (60) days of receipt of the written appeal in the commissioner's office.~~

~~(2) The state board's determination shall be final except that a school district may appeal to Pulaski County Circuit Court under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.~~

~~(d) A school district or public school identified by the department as being in academic distress shall be classified as a school district or public school in academic distress upon final determination by the state board.~~

~~6-15-429. Academic distress — Required action.~~

~~(a) Except as provided under subdivision (b)(3)(B) of this section and § 6-15-430(d), a public school or school district identified as in "academic distress" shall have no more than five (5) consecutive school years from the date of classification of academic distress status to be removed from academic distress status.~~

~~(b)(1) The State Board of Education may at any time take enforcement action on any school district in academic distress status, including without limitation annexation, consolidation, or reconstitution of a school district pursuant to § 6-13-1401 et seq. and the authority of this subchapter.~~

~~(2) The state board may take enforcement action at any time on a public school in academic distress under this subchapter.~~

~~(3)(A) Except as provided under subdivision (b)(3)(B) of this section and § 6-15-430(d), a public school or school district shall not be allowed to remain in academic distress status for a time period greater than five (5) consecutive school years from the date of classification of academic distress status.~~

~~(B) The state board may grant additional time for a public school or school district to remove itself from academic distress by issuing a written finding supported by a majority of the state board explaining in detail that the public school or school district could not remove itself from academic distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district.~~

~~(e) If a public school or school district classified as being in academic distress fails to be removed from academic distress status within the allowed five year time period and has not been granted additional time under subdivision (b)(3)(B) of this section, the state board shall annex, consolidate, or reconstitute the public school or school district before July 1 of the next school year.~~

~~6-15-430. State Board of Education authority over public school or~~

1 ~~school district in academic distress.~~

2 ~~(a) If a school district is classified as being in academic distress,~~
3 ~~the State Board of Education may:~~

4 ~~(1) Remove permanently, reassign, or suspend on a temporary~~
5 ~~basis the superintendent of the school district and;~~

6 ~~(A) Appoint an individual in place of the superintendent~~
7 ~~to administratively operate the school district under the supervision and~~
8 ~~approval of the Commissioner of Education; and~~

9 ~~(B) Compensate from school district funds the individual~~
10 ~~appointed to operate the school district;~~

11 ~~(2) Suspend or remove some or all of the current board of~~
12 ~~directors and call for the election of a new board of directors for the~~
13 ~~school district, in which case the school district shall reimburse the county~~
14 ~~board of election commissioners for election costs as otherwise required by~~
15 ~~law;~~

16 ~~(3) Require the school district to operate without a board of~~
17 ~~directors under the supervision of the superintendent or an individual or~~
18 ~~panel appointed by the Commissioner of Education;~~

19 ~~(4) Waive the application of Arkansas law, with the exception of~~
20 ~~The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq., and the Public~~
21 ~~School Employee Fair Hearing Act, § 6-17-1701 et seq., or the corresponding~~
22 ~~state board rules and regulations;~~

23 ~~(5) Require the annexation, consolidation, or reconstitution of~~
24 ~~the school district;~~

25 ~~(6) In the absence of a board of directors, direct the~~
26 ~~commissioner to assume all authority of the board of directors as may be~~
27 ~~necessary for the day-to-day governance of the school district;~~

28 ~~(7) Return the administration of the school district to the~~
29 ~~former board of directors or to a newly elected board of directors if:~~

30 ~~(A) The Department of Education certifies in writing to~~
31 ~~the state board and to the school district that the school district has~~
32 ~~corrected all issues that caused the classification of academic distress; and~~

33 ~~(B) The state board determines that the school district~~
34 ~~has corrected all issues that caused the classification of academic distress;~~
35 ~~and~~

36 ~~(8) Take any other necessary and proper action, as determined by~~

~~the state board, that is allowed by law.~~

~~(b) If a public school is classified as being in academic distress, the state board may:~~

~~(1) Require the reorganization of the public school or reassignment of the administrative, instructional, or support staff of the public school;~~

~~(2) Require the public school to institute and fully implement a student curriculum and professional development for teachers and administrators that are based on state academic content and achievement standards, with the cost to be paid by the school district in which the public school is located;~~

~~(3) Require the principal of the public school to relinquish all authority with respect to the public school;~~

~~(4) Waive the application of Arkansas law or the corresponding state board rules, with the exception of:~~

~~(A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq., and~~

~~(B) The Public School Employee Fair Hearing Act, § 6-17-1701 et seq.,~~

~~(5) Under The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq., reassign or remove some or all of the licensed personnel of the public school and replace them with licensed personnel assigned or hired under the supervision of the commissioner;~~

~~(6) Remove the public school from the jurisdiction of the school district in which the public school is located and establish alternative public governance and supervision of the public school;~~

~~(7) Require closure or dissolution of the public school;~~

~~(8)(A) Remove permanently, reassign, or suspend on a temporary basis the superintendent of the school district in which the public school is located.~~

~~(B) If the state board takes an action under subdivision (b)(8)(A) of this section, it may appoint an individual in place of the superintendent to administratively operate the school district under the supervision and approval of the commissioner and compensate the appointed individual;~~

~~(9) Take one (1) or more of the actions under subsection (a) of~~

~~this section concerning the public school district where the school is located;~~

~~(10) Return the administration of the school district to the former board of directors or to a newly elected board of directors if:~~

~~(A) The department certifies in writing to the state board and to the school district that the public school has corrected all issues that caused the classification of academic distress and that no public school within the school district is classified as being in academic distress; and~~

~~(B) The state board determines the public school has corrected all issues that caused the classification of academic distress and that no public school within the school district is classified as being in academic distress; and~~

~~(11) Take any other appropriate action allowed by law that the state board determines is needed to assist and address a public school classified as being in academic distress.~~

~~(c)(1) A student attending a public school or school district classified as being in academic distress is automatically eligible and entitled pursuant to the Arkansas Opportunity Public School Choice Act of 2004, § 6-18-227, to transfer to another public school or public school district not in academic distress during the time period that the resident public school or public school district is classified as being in academic distress.~~

~~(2) The cost of transporting the student from the resident district to the nonresident district shall be the cost of the resident district under the Arkansas Opportunity Public School Choice Act of 2004, § 6-18-227.~~

~~(d) If the state board or the commissioner assumes authority over a public school district in academic distress under subsection (a) or subsection (b) of this section, the state board may pursue the following process for returning a public school district to the local control of its residents:~~

~~(1) During the second school year following a public school's or school district's classification of academic distress status, the state board shall determine the extent of the public school's or school district's progress toward correcting all criteria for being classified as in academic distress;~~

~~(2)(A) If the state board determines that sufficient progress has been made by a public school or school district in academic distress toward correcting all issues that caused the classification of academic distress, but the public school or school district has not yet resolved all issues that caused the classification of academic distress, the commissioner, with the approval of the state board, may appoint a community advisory board of either five (5) or seven (7) members to serve under the supervision and direction of the commissioner.~~

~~(B) The members of the community advisory board shall be residents of the school district and shall serve on a voluntary basis without compensation.~~

~~(C) The department shall cause to be provided to the community advisory board technical assistance and training in, at a minimum, the areas required in § 6-13-629.~~

~~(D) The duties of a community advisory board include without limitation:~~

~~(i) Meeting monthly during a regularly scheduled public meeting with the state-appointed administrator regarding the progress of the public school or school district toward correcting all issues that caused the classification of academic distress;~~

~~(ii) Seeking community input from the residents of the school district regarding the progress of the public school or school district toward correcting all issues that caused the classification of academic distress;~~

~~(iii) Conducting hearings and making recommendations to the commissioner regarding personnel and student discipline matters under the appropriate district policies;~~

~~(iv) Working to build community capacity for the continued support of the school district; and~~

~~(v) Submitting quarterly reports to the commissioner and the state board regarding the progress of the public school or school district toward correcting all issues that caused the classification of academic distress.~~

~~(E) The members of the community advisory board shall serve at the pleasure of the commissioner until:~~

~~(i) The school district is returned to local control~~

1 ~~and a permanent board of directors is elected and qualified; or~~

2 ~~(ii) The state board annexes, consolidates, or~~
3 ~~reconstitutes the school district under this section or under another~~
4 ~~provision of law;~~

5 ~~(3)(A) By April 1 of each year following the appointment of a~~
6 ~~community advisory board under subdivision (d)(2) of this section, the state~~
7 ~~board shall determine the extent of the public school's or school district's~~
8 ~~progress toward correcting all issues that caused the classification of~~
9 ~~academic distress and shall:~~

10 ~~(i) Allow the community advisory board to remain in~~
11 ~~place for one (1) additional year;~~

12 ~~(ii) Return the school district to local control by~~
13 ~~calling for the election of a newly elected board of directors if:~~

14 ~~(a) The department certifies in writing to the~~
15 ~~state board and to the school district that the public school or school~~
16 ~~district has corrected all issues that caused the classification of academic~~
17 ~~distress and that no public school within the school district is classified~~
18 ~~as being in academic distress; and~~

19 ~~(b) The state board determines the public~~
20 ~~school or school district has corrected all issues that caused the~~
21 ~~classification of academic distress and that no public school within the~~
22 ~~school district is classified as being in academic distress; or~~

23 ~~(iii) Annex, consolidate, or reconstitute the school~~
24 ~~district pursuant to this title.~~

25 ~~(B) If the state board calls for an election of a new~~
26 ~~school district board of directors, the school district shall reimburse the~~
27 ~~county board of election commissioners for election costs as otherwise~~
28 ~~required by law.~~

29 ~~(4)(A) If the state board calls for an election of a new school~~
30 ~~district board of directors pursuant to subdivision (d)(3)(A)(ii) of this~~
31 ~~section, the commissioner, with the approval of the state board, may appoint~~
32 ~~an interim board of directors to govern the school district until a permanent~~
33 ~~school district board of directors is elected and qualified.~~

34 ~~(B) The interim board of directors shall consist of either~~
35 ~~five (5) or seven (7) members.~~

36 ~~(C) The members of the interim board of directors shall be~~

~~residents of the school and otherwise eligible to serve as school district board members under applicable law.~~

~~(D) The members of the interim board of directors shall serve on a voluntary basis without compensation.~~

~~(e)(1) If, by the end of the fifth school year following the public school's or school district's classification of academic distress status, the public school or school district in academic distress has not corrected all issues that caused the classification of academic distress, the state board, after a public hearing, shall consolidate, annex, or reconstitute the school district under this section.~~

~~(2) The state board may grant additional time for a public school or school district to remove itself from academic distress by issuing a written finding supported by a majority of the state board explaining in detail that the public school or school district could not remove itself from academic distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district.~~

~~(f) Nothing in this section shall be construed to prevent the department or the state board from taking any of the actions listed in this section at any time to address public schools and school districts in academic distress.~~

~~6-15-431. Academic distress rules and regulations.~~

~~(a) The State Board of Education shall promulgate rules and regulations as necessary to identify, evaluate, assist, and address public schools and school districts determined to be in academic distress.~~

~~(b) The academic distress rules and regulations shall be incorporated as part of the Arkansas Comprehensive Testing, Assessment, and Accountability Program rules and regulations.~~

~~(c) The state board may adopt by rule, criteria that permit the following entities to be exempt from the identification and classification of academic distress:~~

~~(1) A public school that is designated solely as an alternative learning environment;~~

~~(2) An open enrollment public charter school whose mission and enrollment are primarily focused on students who have dropped out of high~~

~~school or are identified as at risk of dropping out of school;~~

~~(3) A conversion public charter school whose mission and enrollment are primarily focused on students who have dropped out of high school or are identified as at risk of dropping out of school;~~

~~(4) The Arkansas School for the Blind; and~~

~~(5) The Arkansas School for the Deaf.~~

~~(d) The criteria adopted by the state board under subsection (c) of this section shall include the method to measure student academic performance for a student who attends an entity identified under subsection (c) of this section to meet the requirements of state or federal law or regulation.~~

~~6-15-432. Unsafe school choice program.~~

~~(a) Any student that becomes the victim of a violent criminal offense while in or on the grounds of an Arkansas public elementary, secondary, or public charter school or who is attending a persistently dangerous public school shall be allowed to attend a safe public school within the local educational agency pursuant to rules and regulations established by the State Board of Education and the requirements of the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq.,~~

~~(b) The state board shall promulgate rules and regulations, as necessary, to administer this section.~~

~~6-15-433. Statewide assessment program.~~

~~(a) Upon approval by the State Board of Education or as required by law, the Department of Education shall implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools and tests the requisite knowledge and skills of students.~~

~~(b) Pursuant to the statewide assessment program, the department shall:~~

~~(1) Determine and designate the appropriate offices within the department which shall report to the state board and shall be responsible for determining each school's improvement and performance levels;~~

~~(2) Develop and implement a uniform system of indicators to describe the performance of public school students and the characteristics of the public school districts and the public schools; and~~

~~(3)(A) Implement student achievement assessment as part of the statewide assessment program, to be administered annually to measure English language arts and mathematics, and includes:~~

~~(i) Developmentally appropriate measurements or assessments for kindergarten through grade two (K-2);~~

~~(ii) Either:~~

~~(a) Developmentally appropriate assessments in kindergarten through grade twelve (K-12), as determined by the state board and as required by law; or~~

~~(b) Other assessments that are based on researched best practices as determined by qualified experts that would be in compliance with federal and state law;~~

~~(iii) College and career readiness measurements in English language arts and mathematics as determined by state board rules;~~

~~(iv) End-of-course assessments administered for other content course subject areas as determined by state board rule; and~~

~~(v) Any other assessments required by the state board.~~

~~(B) Science, civics, and government shall be measured on a schedule as determined by the state board.~~

~~(c) The testing program shall be designed so that:~~

~~(1)(A)(i) The tests measure student skills and competencies adopted by the state board as specified in § 6-15-404(a).~~

~~(ii) The tests shall measure and report student achievement levels in reading, writing, and mathematics, including longitudinal tracking of the same students, as well as an analysis of value-added computations of student achievement gains against a national cohort.~~

~~(B) The department shall provide for the tests to be obtained or developed, as appropriate, through contracts and project agreements;~~

~~(2)(A) The testing program, as determined by the state board, shall consist of assessments as defined in subdivision (b)(3)(A)(ii)(b) of this section.~~

~~(B) Questions shall require the student to produce information and perform tasks in such a way that the skills and competencies he or she uses can be measured in a statistically reliable and valid manner;~~

~~(3)(A)(i) Each testing program, whether at the elementary beginning at grade three (3), middle school, or high school level, shall include to the fullest extent possible a test of writing in which students are required to produce writings that are then scored by appropriate analytic methods that ensure overall test validity and reliability, including inter-rater reliability.~~

~~(ii) Writing test results shall be scored and returned for school-district and school use no later than July 1 of each year beginning in 2005-2006 and each year thereafter.~~

~~(B) For end-of-course exams, the department may extend the July 1 deadline under subdivision (c)(3)(A) of this section to August 1 if the department finds, based on the request for proposals, that:~~

~~(i) The cost of administration of the end-of-course exam will be substantially more because of the earlier deadline; or~~

~~(ii) The validity of the end-of-course exam results will be compromised because of the earlier deadline;~~

~~(4) For each subject area tested, a score shall be designated that will be the required level of proficiency below which score a student's performance is deemed inadequate;~~

~~(5) Beginning in the 2004-2005 school year, students in kindergarten through grade twelve (K-12) who do not demonstrate proficiency on the Arkansas Comprehensive Assessment Program examinations shall participate in an intense remediation program specific to identified deficiencies;~~

~~(6) The state board shall designate, based on valid and reliable statistical models, the proficiency levels for each part of the Arkansas Comprehensive Assessment Program examinations;~~

~~(7)(A)(i) Participation in the testing program is mandatory for all students attending public school except as otherwise prescribed by the state board.~~

~~(ii) If a student does not participate in the Arkansas Comprehensive Assessment Program examinations, the school district shall notify the student's parent or guardian and provide the parent or guardian with information regarding the reasons for and implications of such nonparticipation.~~

~~(B) The state board shall:~~

1 ~~(i) Adopt rules in compliance with federal and state~~
2 ~~law, based upon recommendations of the department, for the provision of test~~
3 ~~accommodations and modifications of procedures as necessary for students in~~
4 ~~exceptional education programs and for limited-English proficient students;~~
5 ~~and~~

6 ~~(ii) Not make accommodations that negate the~~
7 ~~validity of a statewide assessment or interpretations or implementations~~
8 ~~which result in less than ninety-five percent (95%) of all students attending~~
9 ~~public school participating in the testing program;~~

10 ~~(8) The department shall implement student testing programs for~~
11 ~~any grade level and subject area necessary to effectively monitor educational~~
12 ~~achievement in the state and shall provide data access to any unit within the~~
13 ~~department or contracted firm or firms for the purpose of analyzing value-~~
14 ~~added computations and posting school, school district, and state student~~
15 ~~achievement, provided such disclosures are not in conflict with applicable~~
16 ~~federal and state law;~~

17 ~~(9)(A) Each school district shall ensure that educators in that~~
18 ~~school district provide instruction to prepare students to demonstrate~~
19 ~~proficiency in the skills and competencies necessary for successful grade-to-~~
20 ~~grade progression and high school graduation.~~

21 ~~(B) The department shall verify that the required skills~~
22 ~~and competencies are part of the school district instructional programs;~~

23 ~~(10) Conduct ongoing research to develop improved statistically~~
24 ~~reliable and valid methods of assessing student performance, including~~
25 ~~without limitation the:~~

26 ~~(A) Use of technology to administer, score, or report the~~
27 ~~results of tests; and~~

28 ~~(B) Use of electronic transfer of data;~~

29 ~~(11) Conduct or contract with a provider to conduct ongoing~~
30 ~~research and analysis of individual student, classroom, school, school~~
31 ~~district, and state achievement data, including without limitation monitoring~~
32 ~~value-added trends in individual student, school, school district, and state~~
33 ~~achievement, identifying school programs that are successful, and analyzing~~
34 ~~correlates of school achievement; and~~

35 ~~(12) Provide technical assistance to school districts in the~~
36 ~~implementation of state and school district testing programs and the use of~~

~~the data produced pursuant to such programs, including longitudinal tracking data.~~

~~6-15-434. School testing programs.~~

~~(a) Student performance data shall be analyzed and reported to parents, the community, and the state, provided such disclosures are not in conflict with applicable federal and state law.~~

~~(b) Student performance trend data shall be one (1) of the components used in developing objectives of the school improvement plan, internal evaluations of instructional and administrative personnel, assignment of staff, allocation of resources, acquisition of instructional materials and technology, performance-based budgeting, and assignment of students into educational programs of the local school district.~~

~~6-15-435. Required analyses.~~

~~The Department of Education shall provide, at a minimum, for the following analyses of data produced by the student achievement testing program:~~

~~(1) The statistical system for the annual assessments shall use the Arkansas Comprehensive Assessment Program examinations and other valid and reliable measures of student learning deemed appropriate by the State Board of Education to determine classroom, school, and school district statistical distributions that shall measure the differences in a student's previous year's achievement compared to the current year's achievement for the purposes of improving student achievement, accountability, and recognition;~~

~~(2)(A) The statistical system shall provide the best estimates of classroom, school, and school district effects on student progress based on established, value-added longitudinal calculations.~~

~~(B) The approach used by the department shall be approved by the state board before implementation; and~~

~~(3)(A)(i) The approach used by the department shall be in alignment with federal statutes and be piloted in the 2004-2005 school year to collect data to allow research and evaluation of student achievement growth models.~~

~~(ii) The approach shall include the following:~~

~~(a) Value-added longitudinal calculations;~~
~~(b) Sufficient transparency in the models' conception and operation to allow others in the field to validate or replicate the results; and~~

~~(c) An assessment of the models' accurateness in relation to other models.~~

~~(iii) A team of relevant technical experts in student assessment and the state board shall review and approve the cost effectiveness of the model in terms of actual and in-kind costs before implementation.~~

~~(B) The department shall establish a schedule for the administration of the statewide assessments.~~

~~(C)(i) Beginning in the 2005-2006 school year and each subsequent year thereafter, in establishing such a schedule, the department is charged with the duty to accomplish the latest possible administration of the statewide assessments and the earliest possible provision, but no later than July 1, of the results to the school districts.~~

~~(ii) For end-of-course exams, the department may extend the July 1 deadline under subdivision (3)(C)(i) of this section to August 1 if the department finds, based on the request for proposals, that:~~

~~(a) The cost of administration of the end-of-course exam will be substantially more because of the earlier deadline; or~~

~~(b) The validity of the end-of-course exam results will be compromised because of the earlier deadline.~~

~~(D) School district boards of directors shall not establish school calendars that jeopardize or limit the valid testing and comparison of student learning gains.~~

~~6-15-436. Local assessments.~~

~~(a) School districts may elect to measure the learning gains of students in subjects and at grade levels in addition to those required for the Arkansas Comprehensive Assessment Program examinations.~~

~~(b) Measurement of the learning gains of students in all subjects and grade levels other than subjects and grade levels required for the program is the responsibility of the school districts.~~

~~(c) The results of these assessments shall be provided to the~~

~~Department of Education upon request of the Commissioner of Education,~~

~~6-15-437. Rules.~~

~~The State Board of Education shall adopt any rules necessary to implement this subchapter under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.~~

~~6-15-438. Test security and confidentiality.~~

~~(a) Violation of the security or confidential integrity of any test or assessment is prohibited.~~

~~(b)(1) The State Board of Education shall sanction a person who engages in conduct prohibited by this section.~~

~~(2) Additionally, the state board may sanction a school district or school, or both, in which conduct prohibited in this section occurs.~~

~~(3) Sanctions imposed by the state board may include without limitation one (1) or more of the following:~~

~~(A) Revocation, suspension, or probation of an individual's license;~~

~~(B) Issuance of a letter of reprimand to a licensed individual to be placed in his or her state personnel file;~~

~~(C) Additional training or professional development to be completed by a licensed individual within the time specified;~~

~~(D) Additional professional development to be administered by the school district to all licensed school district personnel involved in test administration within the time specified;~~

~~(E) Issuance of a letter of warning to the school district; and~~

~~(F) Establishment of a school district plan containing strict test security guidelines that will implement procedures to ensure the security and confidential integrity of all assessment instruments.~~

~~(4) Professional development required pursuant to subsection (b)(3) of this section as a result of violating test security or confidentiality may be in addition to professional development required for licensure.~~

~~(c)(1) Procedures for maintaining the security and confidential integrity of all testing and assessment instruments and procedures shall be~~

~~specified in the appropriate test or assessment administration instructions.~~

~~(2) "Conduct that violates the security or confidential integrity of a test or assessment" means any departure from either the requirements established by the Commissioner of Education for the administration of the assessment or from the procedures specified in the applicable test administration materials.~~

~~(3) "Conduct that violates the security or confidential integrity of a test or assessment" may include, but is not limited to, the following acts and omissions:~~

~~(A) Viewing secure assessment materials;~~

~~(B) Duplicating secure assessment materials;~~

~~(C) Disclosing the contents of any portion of secure assessment materials;~~

~~(D) Providing, suggesting, or indicating to an examinee a response or answer to any secure assessment items;~~

~~(E) Aiding or assisting an examinee with a response or answer to any secure assessment item;~~

~~(F) Changing or altering any response or answer of an examinee to a secure assessment item;~~

~~(G) Failing to follow the specified testing procedures or to proctor students;~~

~~(H) Failing to administer the assessment on the designated testing dates;~~

~~(I) Encouraging or assisting an individual to engage in the conduct described in this subsection;~~

~~(J) Failing to report to the appropriate authority that an individual has engaged in conduct set forth in this section;~~

~~(K) Failing to follow the specified procedures and required criteria for alternate assessments; or~~

~~(L) Failing to return the secured test booklets to the testing company in a timely manner.~~

~~(d)(1) A licensed teacher, including a long-term substitute teacher or retired teacher acting as a substitute teacher, may serve as a proctor during the administration of a test or assessment under this subchapter if the licensed teacher has received the training required by the state board, commissioner, or the Department of Education.~~

~~(2) The state board shall not adopt a statewide test or assessment that prohibits the use of a licensed teacher, including a long-term substitute teacher or retired teacher acting as a substitute teacher, to serve as a proctor during the administration of the test or assessment.~~

~~(3) As used in this section, "long-term substitute teacher" means an individual who holds a valid teaching license who does not have a full-time contract with a school district.~~

~~6-15-439. Reporting of assessment scores for the Arkansas School for Mathematics, Sciences, and the Arts.~~

~~(a) The assessment scores under the Arkansas Comprehensive, Testing, Assessment, and Accountability Program for assessments taken by students attending the Arkansas School for Mathematics, Sciences, and the Arts of the University of Arkansas System shall be sent to the public school district the student attended immediately prior to transferring to the Arkansas School for Mathematics, Sciences, and the Arts, with copies made available to the Arkansas School for Mathematics, Sciences, and the Arts, and shall be included on the reports of the school district the student attended immediately prior to transferring to the Arkansas School for Mathematics, Sciences, and the Arts.~~

~~(b) The State Board of Education shall promulgate rules and regulations as necessary for the proper implementation of this section.~~

~~6-15-440. Arkansas Leadership Academy School Support Program.~~

~~(a)(1) There is created the Arkansas Leadership Academy School Support Program through which the Arkansas Leadership Academy in collaboration with the Department of Education and other leadership groups shall provide support to schools or school districts designated by the Department of Education as being in school improvement and other school districts who opt to participate.~~

~~(2) The program shall be designed, developed, and administered by the academy created under § 6-15-1007.~~

~~(b) The program shall:~~

~~(1) Build the leadership capacity of the school and school district personnel;~~

~~(2) Train a diverse school leadership team, including, but not~~

~~limited to, superintendents, school principals, and teachers;~~

~~(3) Provide a cadre of highly experienced, trained performance coaches to work in the school or school district on a regular basis;~~

~~(4) Work with the school and school district staff, school district board members, parents, community members, and other stakeholders as necessary to provide a comprehensive support network that can continue the school's progress and improvement after completion of the academy's formal intervention and support;~~

~~(5) Ensure access to training programs and leadership skills development;~~

~~(6) Develop incentive programs for institutions and program participants;~~

~~(7) Assist in the development of partnerships between university leadership programs and school districts; and~~

~~(8) Work closely with the School Leadership Coordinating Council, the Department of Education, the Department of Higher Education, and the Department of Career Education to coordinate cohesive leadership goals.~~

~~(c)(1) The Department of Education and the academy shall develop criteria for selection of schools or school districts to participate in the program.~~

~~(2) Any school district that is in school improvement shall be eligible to participate in the program as provided in the rules of the State Board of Education.~~

~~(3) The academy and participating schools shall commit to continue participation in the school support program for no fewer than three (3) consecutive school years.~~

~~(d)(1) The number of schools participating in the program shall be determined by the amount of funding available for the program.~~

~~(2) The state board or the Department of Education may require a school district to fund a portion of the cost of the school's or school district's participation in the school support program if the Commissioner of Education determines that such participation is in the best interest of the students served by the participating school or school district.~~

~~(3) Subject to the approval of the state board, the commissioner shall determine the portion of the school district's financial obligation for participation in the program, if any.~~

~~(e) The state board shall promulgate rules as necessary to implement the requirements of this section.~~

~~(f)(1) The state board shall have the authority to issue requests for proposals if the state board should determine to change the operator or the location of the academy.~~

~~(2) The academy shall maintain one (1) main office and, as needed, satellite offices partnered with institutions of higher education that have approved leadership programs and are strategically located in areas of the state identified by the Department of Education as having the greatest need for school leadership support.~~

~~6-15-441. Arkansas College and Career Readiness Planning Program.~~

~~(a) As used in this section:~~

~~(1) "College and career readiness" means the acquisition of the knowledge and skills a student needs to be successful in future endeavors, including:~~

~~(A) Successfully completing credit-bearing, first-year courses at a postsecondary institution; and~~

~~(B) Embarking on a chosen career; and~~

~~(2) "College and career readiness assessment" means a test that measures student readiness for postsecondary learning and is:~~

~~(A) Administered under this section; or~~

~~(B) Used by an institution of higher education as part of its admissions, placement, and scholarship processes.~~

~~(b)(1)(A) A public school that serves students in grade eight (8) shall administer a college and career readiness assessment approved by the State Board of Education to each student enrolled in grade eight (8) at the public school.~~

~~(B) A public school that serves students in grades ten through twelve (10-12) shall administer a college and career readiness assessment approved by the state board to each student before the student graduates from high school.~~

~~(2) Funding for the college and career readiness assessments listed in subdivision (b)(1) of this section may be paid by using Department of Education at-risk funding.~~

~~(c)(1) Each public school administering the college and career~~

~~readiness assessments under this section shall use the college and career readiness assessments to:~~

~~(A) Assist students with college and career readiness skills, course selection in high school, and improved academic achievement; and~~

~~(B) Provide the basis for the counseling under § 6-16-603 concerning postsecondary preparatory programs.~~

~~(2) Each public school shall fully incorporate the results from college and career readiness assessments listed in subsection (b) of this section into the college and career planning process for each student.~~

~~(d) Data collection shall be maintained by the Department of Education for the purpose of:~~

~~(1) Increasing college and career readiness skills;~~

~~(2) Improving instruction;~~

~~(3) Enhancing school improvement plans;~~

~~(4) Reducing the college remediation rates of students; and~~

~~(5) Developing and implementing postsecondary preparatory programs under § 6-16-601 et seq.~~

~~(e)(1) The department shall report to the House Committee on Education and the Senate Committee on Education no later than December 31 of each year on the:~~

~~(A) Implementation and effectiveness of the Arkansas College and Career Readiness Planning Program; and~~

~~(B) Statistical analysis of postsecondary preparatory programs under § 6-16-601 et seq. for each postsecondary preparatory program.~~

~~(2) The report may be posted on the department's website with a notification to the House Committee on Education and the Senate Committee on Education.~~

~~(f) The state board may promulgate rules to implement this section and shall monitor the use of college and career readiness assessments administered under this section to ensure public school compliance.~~

SECTION 2. Arkansas Code Title 6, Chapter 15, is amended to add an additional subchapter to read as follows:

Subchapter 29 – Arkansas Educational Support and Accountability Act

1 6-15-2901. Title.

2 This subchapter shall be known and may be cited as the "Arkansas
3 Educational Support and Accountability Act".

4
5 6-15-2902. Legislative findings.

6 The General Assembly finds that:

7 (1) Arkansas Constitution, Article 14, § 1, requires the State
8 of Arkansas to provide a general, suitable, and efficient system of free
9 public schools to the children of the state;

10 (2) Under the decision of the Arkansas Supreme Court in Lake
11 View School District No. 25 v. Huckabee, 351 Ark. 31 (2002), it is the
12 absolute duty of the State of Arkansas to provide all public school children
13 with a substantially equal opportunity for an adequate education;

14 (3) It is the state's responsibility to provide the statutory
15 framework necessary to ensure that all students in the public schools of this
16 state have a substantially equal opportunity to achieve and demonstrate
17 academic readiness, individual academic growth, and competencies through the
18 application of knowledge and skills in core subjects, consistent with state
19 academic standards through a student-focused learning system;

20 (4)(A) In Lake View School District No. 25 v. Huckabee, the
21 Arkansas Supreme Court explicitly addressed the relationship between local
22 control versus the state's responsibility when, in quoting DuPree v. Alma
23 School District No. 30, 279 Ark. 340 (1983), it opined, "[i]f local
24 government fails, the state government must compel it to act, and if the
25 local government cannot carry the burden, the state must itself meet its
26 continuing obligation".

27 (B) An accountability system that provides increasing
28 levels of state assistance would help the local government or the local
29 public school district board of directors to meet this burden, while allowing
30 state intervention to occur if the local government chronically fails to meet
31 the burden in spite of the state assistance;

32 (5) Arkansas public schools and school districts would benefit
33 from an accountability system that:

34 (A) Uses multiple measures of student academic achievement
35 and growth; and

36 (B) Allows flexibility for public schools and school

districts to utilize local decision-making while maintaining quality in education;

(6) A comprehensive accountability system would empower the state and public school districts to assess the effectiveness of student-focused education using multiple factors, measures, and indicators of student achievement and school quality, rather than relying solely on an annual statewide assessment; and

(7)(A) The State of Arkansas cannot be the sole guarantor of each individual student's success.

(B) Parents, students, families, educational institutions, and communities, as collaborative partners in education, play an important role in the success of individual students.

6-15-2903. Definitions.

As used in this subchapter:

(1) "Academic growth" means the calculation of a student's academic progress from one school year to the next, as measured by assessments and other criteria required by rule of the State Board of Education;

(2) "College and career readiness assessment" means a set of criterion-referenced measurements of a student's acquisition of the knowledge and skills that the student needs to:

(A) Be successful in future endeavors, including credit-bearing, first-year courses at an institution of higher education such as a two-year or four-year college, trade school, or technical school; or

(B) Embark on a career;

(3) "Consolidated state plan" means the Arkansas consolidated state application accountability plan required under the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, as reauthorized by the Every Student Succeeds Act of 2015, Pub. L. No. 114-95;

(4)(A) "Educator" means a person holding a valid Arkansas standard teaching license, an ancillary license, a provisional license, a technical permit, or an administrator's license issued by the state board.

(B) "Educator" includes a licensed or nonlicensed classroom teacher or administrator employed in a position under a waiver from licensure;

1 (5) "English language arts" means the academic standards for
2 English, reading, and writing;

3 (6) "English learner" means an individual whose native language
4 is a language other than English or who comes from an environment where a
5 language other than English has had a significant impact on the individual's
6 level of English language proficiency;

7 (7) "Personally identifiable information" means the same as in
8 34 CFR § 99.3, as it existed on January 1, 2017;

9 (8) "Public school" means:

10 (A) A school operated by a public school district; or

11 (B) An open-enrollment public charter school, as defined
12 in § 6-23-103;

13 (9) "Public school district" means:

14 (A) A geographic area that:

15 (i) Is governed by an elected board of directors
16 that conducts the daily affairs of public schools pursuant to the supervisory
17 authority vested by this title; and

18 (ii) Qualifies as a taxing unit for purposes of ad
19 valorem property taxes under § 26-1-101 et seq. and Arkansas Constitution,
20 Article 14, § 3; or

21 (B) An open-enrollment public charter school, as defined
22 in § 6-23-103;

23 (10) "School-level improvement plan" means a plan that at a
24 minimum:

25 (A) Establishes goals or anticipated outcomes;

26 (B) Identifies student supports or interventions to be
27 implemented; and

28 (C) Describes the professional learning necessary for
29 adults to deliver the supports or interventions;

30 (11) "School district systems" means the operations and
31 procedures that occur within a public school district, including without
32 limitation:

33 (A) Academics;

34 (B) Facilities

35 (C) Fiscal operations;

36 (D) Human capital management; and

1 (E) Student support services; and

2 (12) "Student success plan" means a personalized education plan
3 intended to assist students with achieving readiness for college, career, and
4 community engagement.

5
6 6-15-2904. Responsibility of Department of Education.

7 The Department of Education shall develop and implement a comprehensive
8 accountability system for Arkansas public schools and school districts that:

9 (1) Establishes clear academic standards that are periodically
10 reviewed and revised;

11 (2) Maintains a statewide student assessment system that includes
12 a variety of assessment measures;

13 (3) Assesses whether all students have equitable access to
14 excellent educators;

15 (4) Establishes levels of support for public school districts;
16 and

17 (5) Maintains information systems composed of performance
18 indicators that allow the department to identify levels of public school
19 district support and generate reports for the public.

20
21 6-15-2905. Authority of State Board of Education.

22 The State Board of Education shall:

23 (1) Approve:

24 (A) Academic standards for each content area; and

25 (B) A statewide student assessment system, including
26 without limitation performance levels for statewide assessments;

27 (2) Promulgate rules to implement the comprehensive
28 accountability system for Arkansas public schools and school districts and
29 this subchapter; and

30 (3) Take any other appropriate action required or authorized by
31 this subchapter.

32
33 6-15-2906. Academic standards.

34 (a)(1) The Department of Education shall establish academic standards
35 that define what students shall know and be able to demonstrate in each
36 content area.

1 (2) Instruction in all public schools shall be based on the
2 academic standards to prepare students to demonstrate the skills and
3 competencies necessary for successful academic growth and high school
4 graduation.

5 (b) The department shall establish a schedule for periodic review and
6 revision of academic standards to ensure that Arkansas academic standards are
7 rigorous and prepare students for college, career, and community engagement;

8 (c) The department shall include, at a minimum, the following elements
9 in the periodic review and revision of Arkansas academic standards:

10 (1) Review and input by Arkansas:

11 (A) Educators from elementary, secondary, and higher
12 education; and

13 (B) Community members with professional experience related
14 to the academic content area;

15 (2) Study and consideration of academic standards at the
16 national and international level, as appropriate;

17 (3) Study and consideration of an evaluation of the academic
18 standards from national groups or organizations, as appropriate; and

19 (4) Public dissemination of revised academic standards.
20

21 6-15-2907. Statewide student assessment system.

22 (a) The Department of Education shall implement a statewide student
23 assessment system to be administered by Arkansas public schools on a schedule
24 determined by the State Board of Education that includes the following
25 components:

26 (1) Developmentally appropriate measurements or assessments for
27 kindergarten through grade two (K-2) in literacy and mathematics;

28 (2) Assessments to measure English language arts, mathematics,
29 and science as identified by the state board;

30 (3) Assessments of English proficiency of all English learners;
31 and

32 (4)(A) Assessments to measure college and career readiness;

33 (B) A public school that serves any student in grades ten
34 through twelve (10-12) shall administer college and career readiness
35 assessments as determined by the state board to each student before he or she
36 graduates from high school.

1 (C) Public school districts may offer additional college
2 and career readiness assessments for students in grades ten through twelve
3 (10-12) at no cost to the student by using public school district funding,
4 including without limitation national school lunch state categorical funding
5 under § 6-20-2305.

6 (b) At the direction of the state board, the department shall cause
7 assessment instruments to be administered at additional grade levels as
8 necessary to measure educational achievement in the public schools of this
9 state.

10 (c) The statewide student assessment system may include additional
11 assessment options approved by the state board, including without limitation
12 assessments to measure application of knowledge and skills in civics,
13 government, and additional sciences, as measured on a schedule determined by
14 the state board.

15 (d) A public school district, at its own expense, may assess the
16 academic achievement and growth of students by other means in addition to the
17 required statewide student assessment system.

18 (e) All students enrolled in a public school district shall
19 participate in the statewide student assessment system.

20 (f) Public school district boards of directors shall not establish
21 school calendars that limit or interfere with student participation in the
22 statewide student assessment system.

23 (g) The State of Arkansas shall participate in the administration of
24 the National Assessment of Educational Progress examinations.

25 (h) The department shall provide for statewide student assessments
26 that are:

27 (1) Valid and reliable;

28 (2) Obtained or developed, as appropriate, through contracts and
29 project agreements;

30 (3) Aligned to the Arkansas academic standards; and

31 (4) Scored and returned for public school and school district
32 use by July 1 of each year.

33 (i)(1) Public schools, school districts, and educators shall maintain
34 assessment security and confidentiality.

35 (2)(A)(i) The following individuals may serve as the test
36 administrator during the administration of a statewide student assessment

under this subchapter if the individual has received the training required by the department:

(1) A licensed educator, including a long-term substitute teacher;

(2) A retired educator; and

(3) An individual employed under a waiver from licensure as a teacher of record or as an administrator.

(ii) If accompanied by a test administrator as described in subdivision (1)(2)(A)(i) of this section, any employee, including a substitute teacher, may serve as a test proctor.

(B) A relative or guardian of a student shall not serve as a test administrator or proctor in the same testing room as the student during the administration of an assessment under this subchapter.

(C) As used in this section, "long-term substitute teacher" means an individual who holds a valid teaching license who does not have a full-time contract with a school district.

(3) A violation by a public school, a public school district or an educator of the security or confidential integrity of any test or assessment may result in action by the state board under §§ 6-17-410 and 6-17-428 or under the rules promulgated by the state board to implement this subchapter.

(f) The statewide student assessment system shall not assess students' religious or political beliefs.

(k)(1) The assessment scores of students attending the Arkansas School for Mathematics, Sciences, and the Arts of the University of Arkansas System shall be sent to and included on the reports of the public school district the student attended immediately prior to transferring to the Arkansas School for Mathematics, Sciences, and the Arts.

(2) Copies of the assessment scores of students attending the Arkansas School for Mathematics, Sciences, and the Arts shall be made available to the Arkansas School for Mathematics, Sciences, and the Arts.

(1) Public school districts shall analyze and report student performance data to students, parents, and the community, if the disclosures are not in conflict with applicable federal law and state law.

6-15-2908. Analyses of statewide student assessment data.

1 (a)(1) The Department of Education shall provide analyses of data
2 produced by statewide student assessments.

3 (2) The analyses of data shall:

4 (A) Use statewide student assessment results and other
5 valid and reliable measures of student learning, as determined by the State
6 Board of Education, that measure student performance and growth for the
7 purposes of improving student achievement, accountability, and recognition;
8 and

9 (B) Provide the best measures of the effects of the
10 classroom, school, and school district on student performance or progress.

11 (3) The model used by the department shall:

12 (A) Be approved by the state board before implementation;
13 and

14 (B) Include without limitation sufficient transparency in
15 the model's selection, development, and operational use to:

16 (i) Ensure that clear documentation, justification,
17 and technical qualities are reported; and

18 (ii) Allow others in the field to assess the nature
19 and quality of the model, the resulting scores, and interpretations based on
20 the model's scores.

21 (b) The state board shall approve the process and timeline for a
22 public school district to verify the accuracy or request correction of the
23 statewide student assessment data.

24 (c) The score on statewide student assessments for an English learner:

25 (1) Shall not be counted for growth or achievement purposes in
26 the accountability ratings of a public school or public school district if
27 the English learner has been enrolled in a public school or private school in
28 the United States for less than twelve (12) months; and

29 (1) Shall be counted for growth purposes only and not for
30 achievement purposes in the accountability ratings of a public school or
31 public school district if the English learner has been enrolled in a public
32 school or private school in the United States for at least twelve (12) months
33 but not more than twenty-four (24) months.

34
35 6-15-2909. Public availability of test instruments and scores.

36 (a) Any material containing the personally identifiable information,

1 including without limitation identifiable scores, of individual students on
2 any test taken under the provisions of this subchapter shall not be:

3 (1) Considered a public record within the meaning of the Freedom
4 of Information Act of 1967, § 25-19-101 et seq.; or

5 (2) Disseminated or otherwise made available to the public by a
6 member of the State Board of Education, an employee of the Department of
7 Education, a member of the board of directors of a school district, an
8 employee of a school district, or any other person, except as permitted under
9 the provisions of the Family Educational Rights and Privacy Act of 1974, 20
10 U.S.C. § 1232g, as it existed on January 1, 2017.

11 (b) All analyses, reports, and compilations of test scores that do not
12 contain personally identifiable information are a public record within the
13 meaning of the Freedom of Information Act of 1967, § 25-19-101 et seq., if
14 the release complies with the Family Educational Rights and Privacy Act of
15 1974, 20 U.S.C. § 1232g, as it existed on January 1, 2017, and with the
16 Student Online Personal Information Protection Act, § 6-18-109.

17 (c) In order to protect the validity and reliability of statewide
18 student assessments, the test instruments shall not be made available to the
19 public.

20
21 6-15-2910. Student performance levels.

22 (a) The Department of Education shall recommend student performance
23 levels for the statewide student assessment system to the State Board of
24 Education for its approval.

25 (b) Student performance levels shall be adopted for the following
26 academic content areas, including without limitation:

27 (1) English language arts;

28 (2) Mathematics; and

29 (3) Science.

30 (c) Student performance levels for academic content areas shall
31 indicate the skills and competencies necessary for a student to be college
32 and career ready by the completion of high school.

33 (d) Student performance levels shall be adopted for English language
34 proficiency.

35
36 6-15-2911. Student-focused learning system.

1 (a)(1) Beginning with the 2017-2018 school year, the Department of
2 Education shall collaborate with public school districts to transition to a
3 student-focused learning system to support success for all students.

4 (2) As part of a public school district's student-focused
5 learning system, the public school district shall annually use multiple
6 academic measures to identify students in need of additional support or
7 acceleration to personalize learning in order for students to achieve their
8 grade-level expectations and individual growth.

9 (3)(A) Academic measures shall include statewide student
10 assessment results.

11 (B) Academic measures may include without limitation:

12 (i) Subject grades;

13 (ii) Student work samples; and

14 (iii) Local assessment scores.

15 (b)(1) Beginning with the 2018-2019 school year, each student, by the
16 end of grade eight (8), shall have a student success plan developed by school
17 personnel in collaboration with parents and the student that is reviewed and
18 updated annually.

19 (2) The student success plan shall, at a minimum:

20 (A) Guide the student along pathways to graduation;

21 (B) Address accelerated learning opportunities;

22 (C) Address academic deficits and interventions; and

23 (D) Include college and career planning components.

24 (3) An individualized education program for a student with a
25 disability, identified under the Individuals with Disabilities Education Act,
26 20 U.S.C. § 1400 et seq., meets the requirements of this section if the
27 individualized education program:

28 (A) Addresses academic deficits and interventions for
29 students not meeting standards-based academic goals at an expected rate or
30 level; and

31 (B) Includes a transition plan that addresses college and
32 career planning components.

33 (4) The State Board of Education may promulgate rules to
34 implement this section that include without limitation requirements for the
35 development and review of a student success plan if a student is enrolled for
36 the first time in or transfers to a public school district in the state

1 during or after the student completes grade eight (8).

2 (c) Public school districts shall use data from college and career
3 readiness assessments to:

4 (1) Update student success plans;

5 (2) Assist students with:

6 (A) College and career readiness skills;

7 (B) Course selection in high school; and

8 (C) Improved academic achievement;

9 (3) Provide the basis for counseling concerning postsecondary
10 preparatory programs; and

11 (4) Support strategies or programs to:

12 (A) Increase college preparation rates of all students,
13 including students of low income, English learners, and minority students;

14 (B) Decrease the remediation rates of high school
15 graduates entering institutions of higher education; and

16 (C) Increase the attainment of career credentials or
17 technical certificates through expanded opportunities for students.

18 (d) Public school districts may include community engagement
19 components as part of the public school's student-focused learning system and
20 student success plans.

21
22 6-15-2912. Educator excellence – Intent.

23 (a) It is the intent of the General Assembly that all students in
24 Arkansas public schools be taught by qualified and effective educators and
25 that low-income or minority students not be taught at disproportionate rates
26 by educators who are ineffective, inexperienced, or teaching a subject for
27 which they are not currently licensed.

28 (b) The State Board of Education may promulgate rules that promote the
29 state's goal of providing all Arkansas public school students with qualified
30 and effective educators and include without limitation:

31 (1) Systems to support educator effectiveness;

32 (2) The method of reporting educator effectiveness by public
33 schools and school districts, including without limitation:

34 (A) The professional qualifications of educators; and

35 (B) The number and percentage of:

36 (i) Teacher educators, principals, and school

1 leaders who are inexperienced;

2 (ii) Educators with emergency or provisional
3 credentials; and

4 (iii) Educators who are teaching a subject for which
5 they are not currently licensed; and

6 (3) The methods of calculating and reporting the rate at which
7 low-income and minority students are disproportionately taught by educators
8 who are ineffective, inexperienced, or teaching a subject for which they are
9 not currently licensed.

10 (c) Each public school and school district shall:

11 (1) Report the data needed by the Department of Education to
12 identify and evaluate educator effectiveness in accordance with state and
13 federal reporting requirements; and

14 (2) Ensure that its educators provide instruction that aligns
15 with the academic standards established to prepare students to demonstrate
16 the skills and competencies necessary for successful academic growth and high
17 school graduation.

18
19 6-15-2913. Levels of school district support.

20 (a)(1) The State Board of Education shall promulgate rules to
21 establish:

22 (A)(i) The process for determining the differentiated
23 levels of support that the Department of Education will provide to school
24 districts.

25 (ii) The levels of support shall include:

26 (a) Level 1 - General;

27 (b) Level 2 - Collaborative;

28 (c) Level 3 - Coordinated;

29 (d) Level 4 - Directed; and

30 (e) Level 5 - Intensive; and

31 (B) The process for guiding, monitoring, or directing:

32 (i) School-level improvement plans;

33 (ii) Supports;

34 (iii) Resources;

35 (iv) Interventions; and

36 (v) Reporting requirements.

1 (2) The process established by the state board for determining
2 the level of support provided to a public school district may include without
3 limitation consideration of:

4 (A) The performance levels of all students on statewide
5 student assessments adopted in accordance with the consolidated state plan;

6 (B) The performance levels of subgroup populations on
7 statewide student assessments adopted in accordance with the consolidated
8 state plan;

9 (C) The schools identified as in need of targeted or
10 comprehensive support, or both, pursuant to the Elementary and Secondary
11 Education Act of 1965, Pub. L. No. 89-10, as reauthorized by the Every
12 Student Succeeds Act of 2015, Pub. L. No. 114-95; and

13 (D) Other criteria the state board determines appropriate,
14 including without limitation:

15 (i) Feeder pattern performance;

16 (ii) Graduation rates;

17 (iii) Growth calculations; and

18 (iv) Other indicators of school success.

19 (b)(1) The state board may adopt, by rule, an alternate process of
20 determining the level of support to be provided to public schools or school
21 districts serving specific student populations, including without limitation:

22 (A) A public school that is designated solely as an
23 alternative learning environment;

24 (B) An open-enrollment public charter school whose mission
25 and enrollment are primarily focused on students who have dropped out of
26 school or are identified as at risk of dropping out of school;

27 (C) A conversion public charter school whose mission and
28 enrollment are primarily focused on students who have dropped out of school
29 or are identified as at risk of dropping out of school;

30 (D) The Arkansas School for the Blind;

31 (E) The Arkansas School for the Deaf; and

32 (F) A public school or system of education that primarily
33 serves adjudicated youth.

34 (2) The alternate process adopted by the state board under
35 subsection (b)(1) of this section shall specify the method to measure student
36 academic performance.

1 (c) A public school district that fails to comply with requirements
2 placed on the public school district by the state board under this subchapter
3 is in violation of the Standards for Accreditation of Arkansas Public Schools
4 and School Districts.

5
6 6-15-2914. School-level improvement plans – School district support
7 plans.

8 (a) The General Assembly finds that it is the responsibility of:

9 (1) The state to support its public school districts; and

10 (2) A public school district to support its schools.

11 (b)(1) Beginning on May 1, 2018, and by May 1 annually thereafter, a
12 public school shall submit to its public school district a school-level
13 improvement plan for approval by the public school district and public school
14 district board of directors for implementation in the following school year.

15 (2) School-level improvement plans shall be posted on the public
16 school district's website by August 1 of each year.

17 (c) School-level improvement plans shall be:

18 (1) Monitored by the public school district for implementation
19 fidelity and progress throughout the year; and

20 (2) Evaluated annually by the public school district for goal
21 progress and accomplishment.

22 (d)(1) Annually by September 1, a public school district receiving
23 Level 2 - Collaborative, Level 3 - Coordinated, Level 4 - Directed, or Level
24 5 - Intensive support shall submit to the Department of Education a public
25 school district support plan in accordance with rules of the State Board of
26 Education.

27 (2) A public school district's support plan shall be posted on
28 the public school district's website no later than ten (10) days after
29 submission to the department.

30 (e) Public school district support plans shall include without
31 limitation the support the public school district will provide to public
32 schools identified as in need of targeted or comprehensive support, or both,
33 pursuant to the Elementary and Secondary Education Act of 1965, Pub. L. No.
34 89-10, as reauthorized by the Every Student Succeeds Act of 2015, Pub. L. No.
35 114-95.

1 6-15-2915. School district classification as in need of Level 5 -
2 Intensive support – Student transfer eligibility.

3 (a) The State Board of Education shall promulgate rules governing the
4 classification of public school districts as in need of Level 5 - Intensive
5 support and the support to be provided.

6 (b) The Department of Education shall notify in writing the public
7 school district superintendent and the president of the public school
8 district board of directors of the recommendation to the state board for
9 classification as in need of Level 5 - Intensive support.

10 (c)(1) A public school district recommended for classification as in
11 need of Level 5 - Intensive support may appeal to the state board by filing a
12 written appeal with the Commissioner of Education in accordance with the
13 procedure established in the rules of the state board.

14 (2) A public school district shall be classified as in need of
15 Level 5 -Intensive support and receive support upon final determination by
16 the state board.

17 (3) A public school district may appeal the state board's final
18 determination to the Pulaski County Circuit Court under the Arkansas
19 Administrative Procedure Act, § 25-15-201 et seq.

20 (d) A student attending a public school district classified as in need
21 of Level 5 - Intensive support may transfer under the Arkansas Opportunity
22 Public School Choice Act of 2004, § 6-18-227, to another public school
23 district that is not classified as in need of Level 5 - Intensive support.

24
25 6-15-2916. State Board of Education authority over a public school
26 district classified as in need of Level 5 - Intensive support.

27 If a public school district is classified as in need of Level 5 -
28 Intensive support, the State Board of Education may:

29 (1) Direct the Commissioner of Education to conduct an analysis
30 of all school district systems and make recommendations for action by the
31 state board; and

32 (2) Assume authority of the public school district and take one
33 (1) or more of the following actions at any time after classification:

34 (A) Remove permanently, reassign, or suspend on a
35 temporary basis the superintendent of the school district and:

36 (i) Appoint an individual in place of the

1 superintendent of the public school district to administratively operate the
2 public school district under the supervision and approval of the
3 commissioner;

4 (ii) Authorize the individual to remove, replace,
5 reassign, or suspend public school district personnel in accordance with
6 state law; and

7 (iii) Compensate from public school district funds
8 the individual appointed to operate the public school district and other
9 individuals authorized by the commissioner;

10 (B) Remove permanently or suspend on a temporary basis
11 some or all of the current public school district board of directors and
12 either:

13 (i) Call for the election of a new public school
14 district board of directors, in which case the public school district shall
15 reimburse the county board of election commissioners for election costs as
16 otherwise required by law;

17 (ii) Require the public school district to operate
18 without a board of directors under the supervision of the superintendent of
19 the public school district or an individual or panel appointed by the
20 commissioner; or

21 (iii) Direct the commissioner to assume some or all
22 authority of the public school district board of directors as may be
23 necessary to operate the public school district;

24 (C)(i) Remove on a temporary basis some or all of the
25 powers and duties granted to the current public school district board of
26 directors under § 6-13-620 or any other law but allow the public school
27 district board of directors to continue to operate under the direction and
28 approval of the commissioner.

29 (ii) The state board shall define the powers and
30 duties of the public school district board of directors.

31 (iii) The public school district board of directors
32 shall act in an advisory capacity to the commissioner regarding all other
33 powers and duties maintained by the commissioner;

34 (D) Require the annexation, consolidation, or
35 reconstitution of the public school district under § 6-13-1401 et seq. and
36 this subchapter;

1 (E) Waive provisions of Title 6 and corresponding rules of
2 the state board with the exception of:

3 (i) Special education programs as provided by this
4 title;

5 (ii) Conducting criminal background checks for
6 employees as provided in this title; and

7 (iii) Health and safety codes as established by the
8 state board and local governmental entities;

9 (F) Require reassignment of some or all of the
10 administrative, instructional, or support staff of a public school;

11 (G) Require a public school to institute and fully
12 implement a student curriculum based on academic standards;

13 (H) Require a public school to provide professional
14 development for teachers and administrators based on the department's review
15 of educators' professional growth plans with the cost to be paid by the
16 public school district in which the public school is located;

17 (I) Remove one (1) or more public schools from the
18 jurisdiction of the classified school district and establish alternative
19 public governance and supervision of the public school;

20 (J) Require reorganization, closure, or dissolution of one
21 (1) or more of the public schools within the classified district; and

22 (K) Take any other necessary and proper action, as
23 determined by the state board that is allowed by law.

24
25 6-15-2917. Public school district under authority of the State Board
26 of Education.

27 (a) For a public school district under the authority of the State
28 Board of Education, the state board shall review quarterly the progress of
29 the public school district toward improving the issues that caused the
30 classification of the public school district as in need of Level 5 -
31 Intensive support.

32 (b) At any time during the second full school year following the
33 assumption of authority or any time thereafter:

34 (1) The state board may direct the commissioner to update the
35 analysis of all school district systems to determine if the public school
36 district has demonstrated substantial improvement of the issues that caused

1 the classification of the public school district as in need of Level 5 -
2 Intensive support;

3 (2) The commissioner may recommend to the state board that the
4 state board:

5 (A) Take additional action concerning the public school
6 district under § 6-15-2916; or

7 (B) Return the public school district to local control
8 through the appointment or election of a board of directors; and

9 (3)(A) The state board may return the public school district to
10 local control through the appointment or election of a newly elected board of
11 directors upon the recommendation of the commissioner.

12 (B) The state board may limit the powers and duties of the
13 public school district board of directors under § 6-13-620 or any other law
14 but allow the public school district board of directors to operate under the
15 direction and approval of the commissioner.

16 (C) The state board shall define the powers and duties of
17 the public school district board of directors if the state board limits the
18 powers and duties under subdivision (b)(3)(B) of this section.

19 (D) The public school district board of directors shall
20 act in an advisory capacity to the commissioner in regards to all other
21 powers and duties maintained by the commissioner.

22 (E) The state board may grant additional powers and duties
23 to the public school district board of directors if the public school
24 district demonstrates progress toward improving the issues that caused the
25 classification of the public school district as in need of Level 5 -
26 Intensive support.

27 (c)(1) If the public school district has not demonstrated to the state
28 board and the Department of Education that the public school district meets
29 the criteria to exit Level 5 - Intensive support within five (5) years of the
30 assumption of authority, the state board shall annex, consolidate, or
31 reconstitute the public school district under § 6-13-1401 et seq. and this
32 subchapter.

33 (2) The state board shall promulgate rules to establish the
34 criteria by which a public school district may exit Level 5 -Intensive
35 support.

6-15-2918. Comprehensive information systems.

(a) The Department of Education shall:

(1) Establish and maintain comprehensive information systems that allow reporting, analysis, and data-driven decision-making by public school districts;

(2) Provide technical assistance to public school districts in the use of the data; and

(3) Provide data access to any authorized entity for analyzing computations and posting public school, public school district, and state student achievement, if the disclosures are not in conflict with applicable federal and state law.

(b) The department shall provide electronic resources for educators to support and augment student achievement, efficiency, and educational initiatives.

(c) The department may contract with providers to collect, maintain, and analyze data and prepare reports.

SECTION 3. TEMPORARY LANGUAGE. DO NOT CODIFY. (a) To ensure an orderly transition from the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq., to the Arkansas Educational Support and Accountability Act, § 6-15-2901 et seq., the Department of Education shall continue to provide supports and interventions to the state's existing priority schools, focus schools, and public schools and public school districts in academic distress or under state authority to meet current state and federal requirements.

(b) As part of the transition process:

(1) Public school districts classified as being in academic distress and under state authority as of the effective date of this act shall:

(A) Be classified by the State Board of Education as in need of Level 5 – Intensive support;

(B) Receive Level 5 – Intensive support; and

(C) Continue to be under state authority subject to the provisions of this act;

(2) Public schools that meet the requisite exit criteria for academic distress, priority, or focus status shall be removed from that

1 classification; and

2 (3)(A) The department, in collaboration with the public school
3 district, shall develop a transitional support plan for public school
4 districts that have public schools classified in academic distress, priority,
5 or focus status.

6 (B) Transitional support plans shall:

7 (i) Be approved by the state board;

8 (ii) Be based on data from:

9 (a) Reports required under the state or federal
10 accountability systems in effect prior to this act;

11 (b) Public school and public school district
12 comprehensive improvement plans;

13 (c) Interim and summative student assessment
14 results from the 2015-2016 and 2016-2017 school years; and

15 (d) Other local data indicating student
16 progress; and

17 (iii) Describe the support:

18 (a) The department will provide to the public
19 school district; and

20 (b) The public school district will provide to
21 its public schools.

22 (C) The department shall continue to assist public
23 school districts pursuant to the approved transitional support plans
24 until the department determines no later than July 1, 2019, the level
25 of support the public school district will receive under the Arkansas
26 Educational Support and Accountability Act, § 6-15-2901 et seq.

27
28 /s/J. English

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31 **APPROVED: 04/05/2017**
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