

MAY 14 2018

BUREAU OF
LEGISLATIVE RESEARCH

**ARKANSAS DEPARTMENT OF EDUCATION
RULES IDENTIFYING AND GOVERNING
THE ARKANSAS FISCAL ASSESSMENT AND ACCOUNTABILITY PROGRAM
~~August 2014~~ Proposed July 2018**

1.00 AUTHORITY

- 1.01 The Arkansas State Board of Education enacted these rules pursuant to Ark. Code Ann. § 6-11-105, Ark. Code Ann. § 6-20-1901 et seq., Ark. Code Ann. § 25-15-201 et seq. and Act 600 of 2013.
- 1.02 These rules shall be known as the Arkansas Department of Education Rules Governing the Arkansas Fiscal Assessment and Accountability Program.

2.00 PURPOSE

- 2.01 The purpose of these rules is to establish how the Department and State Board will evaluate, assess, identify, classify and address school districts in fiscal distress.

3.00 DEFINITIONS

- 3.01 "Annexation"— the joining of an affected school district or part of an affected school district with a receiving district pursuant to Ark. Code Ann. § 6-13-1401 et seq.
- 3.02 "Capital Outlay Expenditures"— land, land improvements, buildings, infrastructure and equipment having a unit value of \$1,000 or more and a life expectancy of more than one year.
- 3.03 "Consolidation"— the joining of two (2) or more school districts or parts of the districts to create a new single school district pursuant to Ark. Code Ann. § 6-13-1401 et seq.
- 3.04 "Current Year Expenditures"— the total expenditures accruing to the combined teacher salary, operating, and debt service funds, excluding restricted funds.
- 3.05 "Current Year Revenues"— the total revenues accruing to the combined teacher salary, operating, and debt service funds, excluding restricted funds.

- 3.06 “Day” – unless otherwise set forth in these rules, a calendar day, regardless of whether it is a day the Department conducts official governmental business.
- 3.07 “Debt” – a legal liability, encumbrance or contract, including employment contracts, to be paid out of future revenues or current reserves of the district.
- 3.08 “Declining Balance” – balance resulting when current year expenditures exceed current year revenues.
- 3.09 “Department” - the Arkansas Department of Education.
- 3.10 “The Fiscal Distress Financial Improvement Plan (Plan)” - the written plan submitted by a district classified in fiscal distress and approved by the Department to be implemented by the district addressing each indicator of fiscal distress identified by the Department and the State Board with a specific corrective action plan and timeline.
- 3.11 “Fiscal Distress Status” – the status of a public school district determined (identified) by the Arkansas Department of Education and classified by the State Board as being placed in fiscal distress status pursuant to Ark. Code Ann. § 6-20-1901 et seq. and these rules.
- 3.12 “Fiscal Integrity” - to comply with financial management, accounting, auditing, and reporting procedures and facilities management procedures as required by state and federal laws and regulations in a forthright and timely manner.
- 3.13 “Jeopardize” - to expose to loss or injury or peril.
- 3.14 “Material Failure, Violation, Default, or Discrepancies” – an act, omission, event, circumstances or combination thereof that directly jeopardizes the fiscal integrity of a school district.
- 3.15 “Non-Material Failure, Violation, Default, or Discrepancies” – an act, omission, event, circumstance, or combination thereof, that does not directly jeopardize the fiscal integrity of a school district, but without intervention could place the school district in fiscal distress.
- 3.16 “Public School or School District” - a public school or school district created or established pursuant to Title 6 of the Arkansas Code and subject to the Arkansas Comprehensive Testing Assessment and Accountability Program Educational Support and Accountability Act except specifically excluding those schools or educational programs created by or receiving authority to exist pursuant to Ark. Code Ann. § 6-15-501; Ark. Code Ann. § 9-28-205 and Ark. Code Ann. § 12-29-301 et seq., or other provisions of Arkansas law.

- 3.17 “Reconstitution” – the reorganization of the administrative unit or the governing school board of directors of a school district, including, but not limited to, the replacement or removal of a current superintendent or the removal or replacement of a current school board of directors or both;
- 3.18 “Restricted Funds” – funds accruing to the teacher salary, operating and debt service funds that can be used only for specific purposes as stated in law or in accordance with a grant award (such as NSLA, ALE, ELL, Professional Development).
- 3.19 “School Year” - a school year beginning July 1 of one calendar year and ending June 30 of the following calendar year.
- 3.20 “State Board” - the Arkansas State Board of Education.

4.00 INDICATORS OF FISCAL DISTRESS

- 4.01 A school district meeting any of the following criteria may be identified by the Department to be a school district in fiscal distress upon final approval by the State Board:
 - 4.01.1 A declining balance determined to jeopardize the fiscal integrity of a school district. However, capital outlay expenditures for academic facilities from a school district balance shall not be used to put the school district in fiscal distress.
 - 4.01.2 An act or violation determined to jeopardize the fiscal integrity of a school district, including without limitation:
 - 4.01.2.1 Material failure to properly maintain school facilities;
 - 4.01.2.2 Material violation of local, state, or federal fire, health, or safety code provisions or law;
 - 4.01.2.3 Material violation of local, state, or federal construction code provisions or law;
 - 4.01.2.4 Material state or federal audit exceptions or violations;
 - 4.01.2.5 Material failure to provide timely and accurate legally required financial reports to the Department, the Division of Legislative Audit, the General Assembly, or the Internal Revenue Service;
 - 4.01.2.6 Insufficient funds to cover payroll, salary, employment benefits, or legal tax obligations;

- 4.01.2.7 Material failure to meet legally binding minimum teacher salary schedule obligations;
- 4.01.2.8 Material failure to comply with state law governing purchasing or bid requirements;
- 4.01.2.9 Material default on any school district debt obligation;
- 4.01.2.10 Material discrepancies between budgeted and actual school district expenditures;
- 4.01.2.11 Material failure to comply with audit requirements; or
- 4.01.2.12 Material failure to comply with any provision of the Arkansas Code that specifically places a school district in fiscal distress based on noncompliance; or
- 4.01.3 Any other fiscal condition of a school district deemed to have a material detrimental negative impact on the continuation of educational services by that school district.

5.00 CLASSIFICATION OF FISCAL DISTRESS STATUS

- 5.01 Those school districts identified by the Department as being in fiscal distress shall be classified as school districts in fiscal distress upon final determination (classification) by the State Board.
- 5.02 Any school district classified as in fiscal distress shall be required to publish at least one (1) time for two (2) consecutive weeks in a newspaper of general circulation in the school district the school district's classification as a school district in fiscal distress and the reasons why the school district was classified as being in fiscal distress.
 - 5.02.1 The district shall publish this announcement within 30 days of the final classification by the State Board.
 - 5.02.2 The newspaper of general circulation may be either a daily or weekly newspaper.
- 5.03 The provisions of subsections 5.01 and 5.02 of these rules are effective after the school district's appeal rights in Ark. Code Ann. § 6-20-1905 and section 6.00 of these rules have been exhausted.

6.00 NOTIFICATION AND APPEAL

- 6.01 The Department shall provide written notice, via certified mail, return receipt requested, to the president of the school board of directors and the superintendent of each school district identified as being in fiscal distress.
- 6.01.1 The Department shall provide the notice on or before March 30 of each year.
- 6.01.2 At any time after March 30, the Department may identify a school district as being in fiscal distress if the Department discovers that a fiscal condition of a school district negatively impacts the continuation of educational services by the school district. If this identification occurs, the Department shall immediately provide the same notice described in section 6.01 of these rules.
- 6.02 Any school district identified in fiscal distress status may appeal to the State Board by filing a written appeal with the Office of the Commissioner of Education, by certified mail return receipt requested, within thirty (30) days of receipt of notice of being identified in fiscal distress status from the Department.
- 6.03 The State Board shall hear the appeal within sixty (60) days of receipt of the written notice of appeal from the school district.
- 6.04 The written appeal shall state in clear terms the reason why the school should not be classified as in fiscal distress.
- 6.05 Notwithstanding any appeal rights in Ark. Code Ann. § 6-20-1901 et seq. and these rules, no appeal shall stay the Department's authority to take action to protect the fiscal integrity of any school district identified as in fiscal distress.
- 6.06 The following procedures shall apply to State Board hearings involving school districts that appeal a fiscal distress identification by the Department:
- 6.06.1 All persons wishing to testify before the State Board shall first be placed under oath by the Chairperson of the State Board.
- 6.06.2 The Department shall have up to thirty (30) minutes to present its case to the State Board as to why the school district identified as a district in fiscal distress should be classified as a school district in fiscal distress. The Chairperson of the State Board may allow additional time if necessary.
- 6.06.3 The appealing school district shall have up to thirty (30) minutes to present its case to the State Board as to why the school district should not be classified as a school district in fiscal distress. The Chairperson of the State Board may allow additional time if necessary.

- 6.06.4 The State Board may pose questions to any party at any time during the hearing.
- 6.06.5 The State Board shall then discuss, deliberate and vote upon the matter of the classification of fiscal distress.
- 6.06.6 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 in a public hearing.
- 6.06.7 The State Board shall issue a written order concerning the matter.
- 6.07 The decision of the State Board shall be a final order, and there is no further right of appeal except that the school district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq.

7.00 FISCAL DISTRESS IMPROVEMENT PLAN

- 7.01 Those school districts classified by the State Board as being in fiscal distress shall file, with the Department within ten (10) days after the final classification, a written fiscal distress financial improvement plan to address any area in which the school district is experiencing fiscal distress as identified by the Department.
 - 7.01.1 The plan shall contain, at a minimum, the following elements:
 - 7.01.1.1 Identification of each indicator of fiscal distress;
 - 7.01.1.2 Specific corrective action steps for each indicator of fiscal distress;
 - 7.01.1.3 A timeline for the completion of each corrective action step;
 - 7.01.1.4 Additional corrective action steps the school district proposes to take; and
 - 7.01.1.5 A timeline for each additional corrective action step proposed by the school district.
 - 7.01.2 The Department is authorized to review and amend the plan submitted by the school district.
 - 7.01.3 The Department may edit, amend, update, or replace the plan at any time deemed appropriate.

- 7.01.4 The school district shall be given notice of the edited, amended, updated, or replacement plan criteria.
- 7.01.5 The district may appeal any edit, amendment or replacement of a plan by filing its written notice of appeal (which must include an explanation of its concerns) with the Commissioner of Education's Office within ten (10) days of receipt of the notice required in subsection 7.01.4. The appeal shall be heard at the next State Board meeting, and the State Board's decision shall be final.
- 7.02 Each school district shall seek and obtain approval of its plan from the Department and shall describe how the school district will remedy those areas in which the school district is experiencing fiscal distress and shall establish the time period by which the school district will remedy all criteria which placed the school district in fiscal distress status.
- 7.03 A school district in fiscal distress may only petition the State Board for removal from fiscal distress status after the Department has certified in writing that the school district has corrected all criteria for being classified as in fiscal distress and has complied with all Department recommendations and requirements for removal from fiscal distress.
- 7.04 Except as set forth in Ark. Code Ann. § 6-20-1910(d)(e) and Section 10.05 of these Rules, a school district shall not be allowed to remain in fiscal distress status for more than five (5) consecutive school years from the date that the school district was classified as being in fiscal distress status.
- 7.05 Any school district classified as being in fiscal distress status shall be required to receive on-site technical evaluation and assistance from the Department.
- 7.06 The Department shall evaluate and make written recommendations to the district superintendent regarding staffing and fiscal practices of the school district.
- 7.07 The written recommendations of the Department shall be binding on the school district, the superintendent and the school district board of directors.
- 7.08 Every six (6) months, the Department shall submit a written evaluation on the status of each school district in fiscal distress to the State Board.
- 7.09 The Department may petition the State Board at any time for the consolidation, annexation, or reconstitution of a school district in fiscal distress or take other appropriate action as allowed by Ark. Code Ann. § 6-20-1901 et seq. and these rules in order to secure and protect the best interest of the educational resources of the state or to provide for the best interests of students in the school district. The State Board may approve the petition or take other appropriate action as allowed by Ark. Code Ann. § 6-20-1901 et seq. and these rules.

- 7.10 Except as set forth in Ark. Code Ann. § 6-20-1910~~(d)~~(e) and Section 10.05 of these Rules, the State Board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in fiscal distress within five (5) consecutive school years of classification of fiscal distress status unless the State Board, at its discretion, issues a written finding supported by a majority of the State Board, explaining in detail that the school district could not remove itself from fiscal distress due to impossibility caused by external forces beyond the school district's control.

8.00 DEBT ISSUANCE

- 8.01 No school district identified in fiscal distress may incur any debt without the prior written approval of the Department.

9.00 DEPARTMENT FISCAL DISTRESS ACTIONS

- 9.01 In addressing school districts in fiscal distress, the Commissioner of Education may:
- 9.01.1 Remove permanently, reassign, or suspend on a temporary basis the superintendent of the school district and:
 - 9.01.1.1 Appoint an individual in place of the superintendent to administratively operate the school district under the supervision and approval of the Commissioner; and
 - 9.01.1.2 Compensate nondepartment agents operating the school district from school district funding;
 - 9.01.2 Suspend or remove some or all of the current board of directors and call for the election of a new board of directors for the school district, in which case the school district shall reimburse the county board of election commissioners for election costs as otherwise recognized by law;
 - 9.01.3 Require the school district to operate without a local school board of directors under the supervision of the local superintendent or an individual or panel appointed by the Commissioner of Education;
 - 9.01.4 Waive the application of Arkansas law or the corresponding State Board of Education rules with the exception of:
 - 9.01.4.1 The Teacher Fair Dismissal Act of 1983, Ark. Code Ann. § 6-17-1501 et seq.; and
 - 9.01.4.2 The Public School Employee Fair Hearing Act, Ark. Code Ann. § 6-17-1701 et seq;

- 9.01.5 Petition the State Board of Education for the annexation, consolidation, or reconstitution of the school district;
- 9.01.6 In the absence of a school district board of directors, assume all authority of the board of directors as designated by the State Board of Education as may be necessary for the day-to-day operation of the school district;
- 9.01.7 Return the administration of the school district to the former board of directors or to a newly elected board of directors if:
 - 9.01.7.1 The Department certifies in writing to the State Board of Education and to the school district that the school district has corrected all issues that caused the classification of fiscal distress; and
 - 9.01.7.2 The State Board of Education determines the school district has corrected all issues that caused the classification of fiscal distress.
 - 9.01.7.3 If the Commissioner calls for an election of a new school district board of directors, the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;
- 9.01.8 Otherwise reconstitute the school district; or
- 9.01.9 Take any other action allowed by law that is deemed necessary to assist a school district in removing the classification of fiscal distress.
- 9.02 The Department may impose various reporting requirements on the school district. The Department may review any and all school district records and documents.
- 9.03 The Department shall monitor the fiscal operations and accounts of the school district.
- 9.04 The Department shall require school district staff and employees to obtain fiscal instruction or training in areas of fiscal concern for the school district.

10.00 STATE BOARD ACTIONS

- 10.01 After a public hearing, the State Board of Education shall consolidate, annex, or reconstitute the school district in fiscal distress to another school district or school districts upon a majority vote of a quorum of the members of the State Board as permitted or required by Ark. Code Ann. § 6-20-1901 et seq. and these rules.
 - 10.01.1 After providing thirty (30) days written notice, via certified mail, return receipt requested, to the superintendent and the president of the school board of directors, the Department may petition the

State Board for the consolidation, annexation, or reconstitution of a school district in fiscal distress pursuant to Ark. Code Ann. § 6-20-1908 and subsection 7.09 of these rules.

- 10.01.2 After providing thirty (30) days written notice, via certified mail, return receipt requested, to the superintendent and the president of the school board of directors, the State Board, on its own motion, may consolidate, annex, or reconstitute the school district in fiscal distress as set forth in Ark. Code Ann. § 6-20-1910 and subsection 10.01 of these rules.
- 10.02 The following procedures shall apply to State Board hearings concerning the consolidation, annexation or reconstitution of a school district in fiscal distress:
- 10.02.1 All persons wishing to testify before the State Board shall first be placed under oath by the Chairperson of the State Board.
- 10.02.2 The Department shall have up to thirty (30) minutes to present its case to the State Board as to why the school district classified as a district in fiscal distress should be consolidated, annexed or reconstituted. The Chairperson of the State Board may allow additional time if necessary.
- 10.02.3 School districts and citizens' groups opposing the consolidation, annexation or reconstitution shall have up to a combined thirty (30) minutes to present their cases to the State Board as to why the school district classified as a district in fiscal distress should not be consolidated, annexed or reconstituted. The Chairperson of the State Board may allow additional time if necessary.
- 10.02.4 The State Board may pose questions to any party at any time during the hearing.
- 10.02.5 The State Board shall then discuss, deliberate and vote upon the matter of the consolidation, annexation or reconstitution of the school district classified as a district in fiscal distress.
- 10.02.6 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 in a public hearing.
- 10.02.7 The State Board shall issue a written order concerning the matter.
- 10.02.8 If the State Board of Education orders the annexation or consolidation of a school district in fiscal distress, the order shall,

as appropriate, dissolve existing school districts and establish receiving or resulting school districts. The order shall also establish the boundary lines of the receiving or resulting school district or school districts. The State Board shall file the order with:

- 10.02.8.1 The county clerk of each county where a receiving or resulting district is located. The county clerk shall make a permanent record of the order;
- 10.02.8.2 The Secretary of State; and
- 10.02.8.3 The Arkansas Geographic Information Systems Office.
- 10.02.9 It shall be the duty of the Department to make changes in the maps of the school districts to properly show the boundary lines of the receiving or resulting districts.
- 10.03 The State Board has exclusive jurisdiction to determine the boundary lines of the receiving or resulting school district and to allocate assets and liabilities of the school district.
- 10.04 The decision of the State Board shall be final with no further right of appeal except that a school district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq.
- 10.05 If the Commissioner of Education assumes authority over a public school district in fiscal distress as set forth in Ark. Code Ann. § 6-20-1909-10(a) or Section 9.00 of these Rules, the State Board of Education may pursue the following process for returning a public school district to the local control of its residents.
 - 10.05.1 During the second full school year following a school district's ~~classification as being in fiscal distress status~~ the assumption of authority, the State Board shall determine the extent of the school district's progress toward correcting all issues that caused the classification of fiscal distress;
 - 10.05.2 If the State Board determines that sufficient progress has been made by a school district toward correcting all issues that caused the classification of fiscal distress, but the school district has not yet resolved all issues that caused the classification of fiscal 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.

- 10.05.2.1 The members of the community advisory board shall be residents of the school district and shall serve on a voluntary basis without compensation.
- 10.05.2.2 The Department of Education shall cause to be provided to the community advisory board technical assistance and training in, at a minimum, the areas required in Ark. Code Ann. § 6-13-629.
- 10.05.2.3 The duties of the community advisory board include without limitation:
- 10.05.2.3.1 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 fiscal distress;
 - 10.05.2.3.2 Seeking community input from the patrons of the school district regarding the progress of the public school or school district toward correcting all issues that caused the classification of fiscal distress;
 - 10.05.2.3.3 Conducting hearings and making recommendations to the Commissioner regarding personnel and student discipline matters under the appropriate district policies;
 - 10.05.2.3.4 Working to build community capacity for the continued support of the school district; and
 - 10.05.2.3.5 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 fiscal distress.

- 10.05.2.4 The members of the community advisory board shall serve at the pleasure of the Commissioner until:
- 10.05.2.5 The school district is returned to local control and a permanent board of directors is elected and qualified; or
- 10.05.2.6 The State Board annexes, consolidates, or reconstitutes the school district under Ark. Code Ann. § 6-20-1910 or under another provision of law;
- 10.05.2.5 By April 1 of each year following the appointment of a community advisory board under Ark. Code Ann. § 6-20-1910(d)(2) and Section 10.05 of these Rules, the State Board shall determine the extent of the school district's progress toward correcting all issues that caused the classification of fiscal distress and shall:
- 10.05.2.6 Allow the community advisory board to remain in place for one (1) additional year;
- 10.05.2.7 Return the school district to local control by calling for the election of a newly elected board of directors if the Department of Education certifies in writing to the State Board and to the school district that the school district has corrected all criteria for being placed into fiscal distress; and the State Board determines the school district has corrected all criteria for being placed into fiscal distress; or
- 10.05.2.8 Annex, consolidate, or reconstitute the school district pursuant to Title 6 of the Arkansas Code.
- 10.05.2.6 If the State Board or Commissioner calls for an election of a new school district board of directors,

the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

- 10.05.2.7 If the State Board calls for an election of a new school district board of directors pursuant to Ark. Code Ann. § 6-20-1910 (d)(3)(A)(ii) or these Rules, the Commissioner, with the approval of the State Board, may appoint an interim board of directors to govern the school district until a permanent school district board of directors is elected and qualified.

10.05.2.7.1 The interim board of directors shall consist of either five (5) or seven (7) members.

10.05.2.7.2 The members of the interim board of directors shall be residents of the school district and otherwise eligible to serve as school district board members under applicable law.

10.05.2.7.3 The members of the interim board of directors shall serve on a voluntary basis without compensation.

- 10.05.3 If, by the end of the fifth school year following the school district's classification of fiscal distress status, the school district in fiscal distress has not corrected all issues that caused the classification of fiscal distress, the State Board, after a public hearing, shall consolidate, annex, or reconstitute the school district under Ark. Code Ann. § 6-20-1910 and these Rules.

10.05.3.1 The State Board may grant additional time for a public school or school district to remove itself from fiscal 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 fiscal distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district.

- 10.05.4 Nothing in Ark. Code Ann. § 6-20-1910 or these Rules shall be construed to prevent the Department of Education or the State Board from taking any of the actions listed in Ark. Code Ann. § 6-20-1909 or Ark. Code Ann. § 6-20-1910 at any time to address a school district in fiscal distress.

12.00 EARLY INDICATORS OF FISCAL DISTRESS

- 12.01 By August 31 of each year, the Department shall report to the superintendent of a school district if the Department is aware that the district has experienced two (2) or more indicators of fiscal distress in one (1) school year that the Department deems to be at a nonmaterial level, but that without intervention could place the district in fiscal distress.
- 12.02 By August 31 of each year, the superintendent of a school district shall report to the Department if the superintendent is aware the school district has experienced two (2) or more indicators of fiscal distress in one (1) school year that the superintendent deems to be at a nonmaterial level, but that without intervention could place the district in fiscal distress.
- 12.03 The Department and the superintendent shall review all data related to the nonmaterial indicators of fiscal distress.
- 12.03.1 Within thirty (30) days of the Department's determination that the school district may be experiencing fiscal distress at a nonmaterial level, the Department shall provide a notice to the school district's superintendent and board of directors that:
- 12.03.1.1 Describes the nonmaterial indicators of fiscal distress that could jeopardize the fiscal integrity of the school district if not addressed; and
- 12.03.1.2 Identifies the support available from the Department to address each nonmaterial indicator of fiscal distress.
- 12.03.2 The board of directors shall place on the agenda for the next regularly scheduled meeting of the board of directors a discussion of the notice of nonmaterial indicators of fiscal distress.

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017

A Bill

HOUSE BILL 1646

4
5 By: Representative Cozart
6

For An Act To Be Entitled

8 AN ACT TO AMEND VARIOUS PROVISIONS OF THE ARKANSAS
9 CODE CONCERNING PUBLIC EDUCATION; AND FOR OTHER
10 PURPOSES.
11

Subtitle

12
13 TO AMEND VARIOUS PROVISIONS OF THE
14 ARKANSAS CODE CONCERNING PUBLIC
15 EDUCATION.
16

17
18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Title 6, Chapter 5, Subchapter, 1 is
22 repealed.

23 ~~Subchapter 1 — Early Childhood Development Projects~~
24

25 ~~6-5-101. Authorization.~~

26 ~~(a) Any school district or any combination of school districts of this~~
27 ~~state is authorized to join with a state-supported junior college, college,~~
28 ~~or university, or any combination of state-supported junior colleges,~~
29 ~~colleges, or universities in this state and develop a pilot or demonstration~~
30 ~~project for early childhood development and teaching and to apply to the~~
31 ~~Department of Education for approval and funding of the project.~~

32 ~~(b) Any project to be approved must be a program combining both~~
33 ~~childhood development for the children involved in the project and training~~
34 ~~for teachers in the area of early childhood development.~~
35

36 ~~6-5-102. Project guidelines.~~



~~(a) The Department of Education shall develop guidelines to assist school districts and colleges and universities in developing projects to be submitted for approval and funding pursuant to this subchapter.~~

~~(b) These guidelines will include, but will not be restricted to, criteria for:~~

- ~~(1) Instructional objectives;~~
- ~~(2) Classroom characteristics;~~
- ~~(3) Competence of the classroom workers;~~
- ~~(4) Evaluation of the program;~~
- ~~(5) Dissemination of program ideas and training procedures;~~
- ~~(6) Reports of progress and findings; and~~
- ~~(7) Age of children to be eligible for participation.~~

~~6-5-103. College role.~~

~~The Arkansas Higher Education Coordinating Board will be apprised of the role of the colleges in these projects and will advise the Department of Education with respect to the efficient coordination of the college portions of the program.~~

~~6-5-104. Funding.~~

~~After approval, a program shall then be funded out of the funds appropriated in this subchapter in an amount as shall be approved by the Department of Education in consultation with the Arkansas Higher Education Coordinating Board.~~

SECTION 2. Arkansas Code § 6-10-119 is amended to read as follows:

6-10-119. Medicaid billing.

(a)(1) By May 1 of each year, the ~~Special Education Section of the~~ Department of Education shall ~~determine which~~ identify school districts ~~that~~ are underperforming in the area of direct-service Medicaid billing.

(2) ~~Based on this determination, underperforming~~ The department shall direct identified school districts ~~shall be directed by the section to~~ increase direct-service Medicaid billing by district staff or enter into an ~~agreement~~ associate with an education service cooperative or other public or ~~private entity~~ for the provision of direct-service Medicaid billing services.

(b) The school district for which billing services are rendered shall

1 pay the education service cooperative providing the billing services an
 2 amount necessary to compensate the education service cooperative for costs
 3 associated with providing the services, ~~subject to the review and approval of~~
 4 ~~the section.~~

5 (c) Nothing in this section shall be construed to restrict qualified
 6 public or private providers from developing, maintaining, or expanding
 7 service relationships with school districts.
 8

9 SECTION 3. Arkansas Code § 6-10-121(a)(1), concerning tornado safety
 10 drills, is amended to read as follows:

11 (a)(1) As used in this section, "public school" means:

12 (A) a A school that is part of a public school district
 13 under the control and management of a local school district board of
 14 directors; or

15 (B) An open enrollment public charter school.
 16

17 SECTION 4. Arkansas Code § 6-11-104(b), concerning meetings of the
 18 State Board of Education, is amended to read as follows:

19 (b) ~~The state board will meet each December to~~ In any of its meetings
 20 before the end of the calendar year, the state board shall determine the
 21 meeting dates for the following year.
 22

23 SECTION 5. Arkansas Code § 6-11-105(a)(3), concerning the powers and
 24 duties of the State Board of Education, is repealed.

25 ~~(3) Prescribe rules for the examination of pupils to detect~~
 26 ~~contagious and infectious diseases and physical defects;~~
 27

28 SECTION 6. Arkansas Code § 6-11-112 is amended to read as follows:

29 6-11-112. Power to make plans coordinating state and federal laws.

30 The State Board of Education is empowered to make plans, promulgate
 31 rules, and seek waivers for flexibility as necessary for this state to meet
 32 the requirements of a law enacted by Congress for general education,
 33 including without limitation the Elementary and Secondary Education Act of
 34 1965, Pub. L. No. 89-10, as reauthorized by the ~~No Child Left Behind Act of~~
 35 ~~2001, Pub. L. No. 107-110, Every Student Succeeds Act, Pub. L. No. 114-95, or~~
 36 any supplementary federal regulations, directives, or decisions of the United

1 States Department of Education pertaining to that legislation.

2

3 SECTION 7. Arkansas Code § 6-11-119 is repealed.

4 ~~6-11-119. Correspondence courses.~~

5 ~~(a) The State Board of Education shall promulgate reasonable rules,~~
6 ~~regulations, and standards for the accreditation of persons, firms, schools,~~
7 ~~or educational institutions offering correspondence courses to the people of~~
8 ~~this state and may grant certificates of approval to those persons, firms,~~
9 ~~schools, or educational institutions offering correspondence courses that~~
10 ~~meet the approval of its rules, regulations, and standards.~~

11 ~~(b) It shall be unlawful for any person, firm, school, or educational~~
12 ~~institution to advertise by newspaper, magazine, pamphlet, handbill, or other~~
13 ~~printed method published in this state or by radio or by television in this~~
14 ~~state the offering of any correspondence courses unless that person, firm,~~
15 ~~school, or educational institution shall have first registered with the State~~
16 ~~Board of Education and shall have been approved by the State Board of~~
17 ~~Education as an accredited correspondence school.~~

18 ~~(c)(1) The provisions of this section shall be applicable to all~~
19 ~~schools or educational institutions offering correspondence courses whether~~
20 ~~the schools are located in this state or in some other state.~~

21 ~~(2) However, these provisions shall not apply to those schools~~
22 ~~or educational institutions regulated by the State Board of Private Career~~
23 ~~Education or by the Arkansas Higher Education Coordinating Board.~~

24 ~~(d) Any person violating this section shall be guilty of a violation~~
25 ~~and upon conviction shall be fined in the sum of not less than two hundred~~
26 ~~fifty dollars (\$250) and not more than five hundred dollars (\$500).~~

27

28 SECTION 8. Arkansas Code § 6-11-128(b), concerning school district use
29 of a software system other than the Arkansas Public School Computer Network,
30 is repealed.

31 ~~(b) After approval by the Department of Education, a school district~~
32 ~~may use a different software system at the school district level if:~~

33 ~~(1) The Department of Education determines that the school~~
34 ~~district's software meets the minimum reporting requirements provided by the~~
35 ~~Arkansas Public School Computer Network; and~~

36 ~~(2) The school district supplies all school district transaction~~

~~information to the Arkansas Public School Computer Network in a compatible format and in sufficient detail as required by the Department of Education.~~

SECTION 9. Arkansas Code § 6-11-128(c)(6), concerning a certification program for the Arkansas Public School Computer Network, is repealed.

~~(6)(A) Developing a certification program to certify:~~

~~(i) At least one (1) person in each school district as a certified APSCN financials user and trainer; and~~

~~(ii) At least one (1) person in each school district as a certified APSCN student management user and trainer.~~

~~(B) The certification process shall require an applicant for certification to successfully complete the following components, including without limitation:~~

~~(i) Courses in the application area;~~

~~(ii) Training in using the network's reporting tools; and~~

~~(iii) An examination that tests the applicant's knowledge and skills in the application area and the Arkansas Public School Computer Network's reporting tools.~~

~~(C) In a school district of five hundred (500) or fewer students, one (1) person may be certified in both financials and student management; and~~

SECTION 10. Arkansas Code § 6-11-131 is repealed.

~~6-11-131. Divisions of the Department of Education.~~

~~(a)(1) Effective July 1, 2005, the Department of Education shall consist of a central administration and the following divisions:~~

~~(A) The Division of Fiscal and Administrative Services;~~

~~(B) The Division of Human Resources;~~

~~(C) The Division of Learning Services; and~~

~~(D) The Division of Research and Technology.~~

~~(2) Effective April 11, 2006, the Division of Public School Academic Facilities and Transportation, established under § 6-21-112, shall be under the department.~~

~~(3) Effective July 1, 2007, the Division of Public School Accountability, established under § 6-15-102, shall be under the department.~~

~~(b)(1) The Division of Public School Accountability shall have such duties as provided by law.~~

~~(2) The Division of Public School Academic Facilities and Transportation shall have duties as provided by law and such responsibility and programs as may be assigned by the Commission for Arkansas Public School Academic Facilities and Transportation.~~

~~(3) The remaining divisions shall have such responsibility and programs as may be assigned to them by the Commissioner of Education.~~

~~(c)(1) Except as provided in subdivision (c)(2) of this section, each division of the department shall be under the direction, control, and supervision of the Commissioner of Education.~~

~~(2) The Division of Public School Academic Facilities and Transportation shall be under the direction, control, and supervision of the Commission for Arkansas Public School Academic Facilities and Transportation.~~

SECTION 11. Arkansas Code § 6-13-1505(d)(1), concerning creation of a school district, is amended to read as follows:

(d)(1) The ~~ad valorem~~ valorem tax rate of the new school district shall remain the same as that of the original school district until an election is held in the new school district and a rate of tax is approved and shall be allocated in the same proportion between maintenance and operation and debt service as was allocated by the original school district.

SECTION 12. Arkansas Code § 6-13-1505(e)(2), concerning creation of a school district, is amended to read as follows:

(2) Enter into ~~lease with purchase~~ lease-purchase agreements, revolving loans under 6-20-801 et seq., ~~term loans, post-date~~ post-dated warrants, or installment contracts;

SECTION 13. Arkansas Code § 6-13-1505(h)(2), concerning creation of a school district, is amended to read as follows:

(2) At the school election or any subsequent school election, a new school district may present to the qualified electors of the new school district a proposed ~~ad valorem~~ valorem tax for the maintenance and operation of schools and the retirement of indebtedness.

1 SECTION 14. Arkansas Code § 6-13-1606 is repealed.

2 ~~6-13-1606. Development of plan to track student progress.~~

3 ~~(a) Following the administrative consolidation or administrative~~
4 ~~annexation under §§ 6-13-1601 6-13-1603, 6-13-1604 [repealed], and 6-13-~~
5 ~~1605 [repealed] effective before December 1, 2004, and before any~~
6 ~~consolidation, annexation, detachment, approval of a conversion charter, or~~
7 ~~any other type of reclassification or reorganization of a school district~~
8 ~~after December 1, 2004, each receiving district or resulting district and the~~
9 ~~Department of Education shall develop a plan to track the educational~~
10 ~~progress of all students from the affected district and the following~~
11 ~~subgroups of those students:~~

12 ~~(1) Students who have been placed at risk of academic failure as~~
13 ~~required under § 6-15-1602;~~

14 ~~(2) Economically disadvantaged students;~~

15 ~~(3) Students from major racial and ethnic groups; and~~

16 ~~(4) Specific population groups as identified by the State Board~~
17 ~~of Education, the department, the affected district, or the receiving~~
18 ~~district as target groups for closing the achievement gaps.~~

19 ~~(b) The receiving or resulting district shall obtain and retain all~~
20 ~~student records from the affected district for the five (5) years immediately~~
21 ~~preceding the administrative consolidation or administrative annexation,~~
22 ~~specifically including, but not limited to:~~

23 ~~(1) Individual student records;~~

24 ~~(2) Attendance records;~~

25 ~~(3) Enrollment records;~~

26 ~~(4) Assessment records for assessments required under the~~
27 ~~Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, §~~
28 ~~6-15-401 et seq., specifically including benchmark assessments and end-of-~~
29 ~~course assessments; and~~

30 ~~(5) ACT and SAT results and records.~~

31 ~~(c) The school district shall report to the department information~~
32 ~~determined by the department as necessary to track the educational progress~~
33 ~~of all students from the affected district as a subgroup and the following~~
34 ~~subgroups of those transferred students:~~

35 ~~(1) Students who have been placed at risk of academic failure as~~
36 ~~required under § 6-15-1602;~~

~~(2) Economically disadvantaged students; and~~

~~(3) Students from major racial and ethnic groups.~~

~~(d) By November 1, 2005, and by November 1 each year thereafter, the department shall file a written report with the Governor, the chair of the House Committee on Education, the chair of the Senate Committee on Education, and the secretary of the Legislative Council assessing the educational progress of all students from the affected district as a subgroup and the following subgroups of those transferred students:~~

~~(1) Students who have been placed at risk of academic failure as required under § 6-15-1602;~~

~~(2) Economically disadvantaged students; and~~

~~(3) Students from major racial and ethnic groups.~~

SECTION 15. Arkansas Code § 6-15-902(c)(2)(C)(i), concerning grading scales, is amended to add an additional subdivision to read as follows:

(c) Attends a College Board endorsed training at intervals recommended by the College Board; or

SECTION 16. Arkansas Code § 6-15-1402(b)(4)(B), concerning the contents of a school performance report, is amended to read as follows:

(B) Of that total, the number who meet each of the following criteria:

~~(i) Highly qualified teacher;~~

~~(ii) Identified as proficient or above under the Teacher Excellence and Support System for the school; and~~

~~(iii)~~ (ii) Certified by the National Board for Professional Teaching Standards.

SECTION 17. Arkansas Code § 6-15-1601(g)(2), concerning the duties of the Commission on Closing the Achievement Gap in Arkansas, is amended to read as follows:

(2) Monitor the Department of Education's efforts to comply with federal guidelines on improving the academic achievement of the disadvantaged, specifically ~~including, but not limited to,~~ including without limitation the No Child Left Behind Act of 2001 Elementary and Secondary Education Act of 1965, Pub. L. No. 80-10, as reauthorized by the Every

1 Student Succeeds Act, Pub. L. No. 114-95;
2

3 SECTION 18. Arkansas Code § 6-15-1601(h)(2), concerning the Commission
4 on Closing the Achievement Gap in Arkansas, is amended to read as follows:

5 (2) Relevant technical experts to assist in drafting and monitoring
6 the department's efforts to comply with federal guidelines on improving the
7 academic achievement of the disadvantaged, specifically including without
8 limitation the ~~No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq.~~
9 Elementary and Secondary Education Act of 1965, Pub. L. No. 80-10, as
10 reauthorized by the Every Student Succeeds Act, Pub. L. No. 114-95;
11

12 SECTION 19. Arkansas Code § 6-15-2502(d)(3)(C)(iii), concerning the
13 criteria for designating education renewal zones and participating schools,
14 is repealed.

15 ~~(iii) The school demonstrates an inability to hire~~
16 ~~and retain highly qualified teachers as defined by the state plan for~~
17 ~~compliance with the federal No Child Left Behind Act of 2001, 20 U.S.C. §~~
18 ~~6301 et seq.;~~
19

20 SECTION 20. Arkansas Code § 6-16-1405(a)(4), concerning the approval
21 of digital learning providers, is amended to read as follows:

22 (4)(A) Utilizes highly qualified teachers to deliver digital
23 learning courses to public school students.

24 (B) A highly qualified teacher ~~that~~ who delivers digital
25 learning courses under this subchapter is not required to be licensed as a
26 teacher or administrator by the state board, but shall meet the minimum
27 qualifications for teaching in a core content area established by rules of
28 the state board.
29

30 SECTION 21. Arkansas Code § 6-17-704(d), concerning school district
31 professional development plans, is amended to read as follows:

32 (d) The professional development offerings may include approved
33 conferences, workshops, institutes, individual learning, mentoring, peer-
34 coaching, study groups, National Board for Professional Teaching Standards
35 certification, distance learning, micro-credentialing approved by the
36 department, internships, and college or university course work.

1
2 SECTION 22. Arkansas Code § 6-17-705(e), concerning professional
3 development credit, is amended to read as follows:

4 (e) A person who holds any license issued by the State Board of
5 Education may obtain credit for required professional development through a
6 micro-credentialing process approved by the department.

7 (f) The State Board of Education state board shall promulgate the
8 rules necessary for the proper implementation of this section.
9

10 SECTION 23. Arkansas Code § 6-17-707(e), concerning the Arkansas
11 Online Professional Development Initiative, is amended to read as follows:

12 (e)(1) The department shall determine the content of and preapprove
13 all professional development courses or programs delivered by the network
14 that qualify for professional development credit as required by the Standards
15 for Accreditation of Arkansas Public Schools and School Districts or teacher
16 licensure requirements.

17 (2) The department may approve professional development obtained
18 through a micro-credentialing process.
19

20 SECTION 24. Arkansas Code § 6-17-919(b), concerning the warrants
21 issued without a valid teaching license, is amended to read as follows:

22 (b)(1) The school district superintendent and the superintendent's
23 surety shall be liable for any warrants that he or she countersigns in
24 payment of teachers' salaries unless and until the state board has issued a
25 valid license or the ~~department~~ Department of Education has provided the
26 documentation required by subdivision (a)(1)(B) of this section.

27 (2) An online copy that is accessible on a website designated by
28 the department is sufficient evidence of the issuance of a valid license or
29 the documentation required by subdivision (a)(1)(B) of this section.
30

31 SECTION 25. Arkansas Code Title 6, Chapter 18, Subchapter 3, is
32 amended to add an additional section to read as follows:

33 6-18-320. Unsafe school choice program.

34 (a) Any student that becomes the victim of a violent criminal offense
35 while in or on the grounds of an Arkansas public elementary, secondary, or
36 public charter school or who is attending a persistently dangerous public

1 school shall be allowed to attend a safe public school within the local
 2 educational agency under rules established by the State Board of Education.

3 (b) The state board may promulgate rules to administer this section.
 4

5 SECTION 26. Arkansas Code Title 6, Chapter 18, Subchapter 8 is
 6 repealed.

7 ~~Subchapter 8 — School Safety Patrols~~
 8

9 ~~6-18-801. Rules and regulations.~~

10 ~~The State Board of Education shall promulgate rules and regulations by~~
 11 ~~which every school district board of directors in this state may organize,~~
 12 ~~regulate, and supervise school safety patrols for the purpose of:~~

13 ~~(1) Influencing and encouraging the other pupils to refrain from~~
 14 ~~crossing public highways and streets at points other than at regular~~
 15 ~~crossings;~~

16 ~~(2) Influencing and encouraging pupils to refrain from crossing~~
 17 ~~at regular crossings when the presence of traffic would render such crossing~~
 18 ~~unsafe; and~~

19 ~~(3) Assisting drivers of school buses in maintaining safety~~
 20 ~~rules and in ascertaining that pupils are received and discharged from buses~~
 21 ~~in safety.~~

22
 23 ~~6-18-802. Liability.~~

24 ~~No liability shall attach either to the State Board of Education, the~~
 25 ~~school district, a superintendent, teacher, safety patrol member, or other~~
 26 ~~school authority by virtue of the organization, maintenance, or operation of~~
 27 ~~a school safety patrol organized, maintained, and operated under authority of~~
 28 ~~and in compliance with this subchapter.~~

29
 30 ~~6-18-803. Powers and duties.~~

31 ~~(a)(1) Nothing herein contained shall be construed to authorize or~~
 32 ~~permit the use of any safety patrol member for the purpose of directing~~
 33 ~~vehicular traffic.~~

34 ~~(2) However, this shall not prohibit the use of a flag or other~~
 35 ~~approved signal by a safety patrol member for the purpose of indicating to a~~
 36 ~~driver that school children are crossing the street.~~

~~(b) No safety patrol member shall be stationed in that portion of the highway intended for the use of vehicular traffic but shall perform his or her duties from the curb and sidewalk areas.~~

~~6-18-804. Age and consent requirements.~~

~~(a) No pupil shall be designated a safety patrol member under this subchapter unless he or she is eleven (11) years of age or older and has the written permission of a parent or guardian.~~

~~(b) Any teacher or board member using any pupil for safety patrol purposes without the written permission of a parent or guardian shall be guilty of a violation and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) for each offense.~~

SECTION 27. Arkansas Code § 6-18-1005(a)(1)(L), concerning student guidance services, is amended to read as follows:

(L) Classroom guidance, which shall be limited to forty-minute class sessions, not to exceed three (3) per day or and not to exceed ten (10) per week; and

SECTION 28. Arkansas Code § 6-20-1908(d), concerning the length of fiscal distress status, is amended to read as follows:

(d) Except under ~~§ 6-20-1910(d)~~ § 6-20-1910(e), a school district shall not be allowed to remain in fiscal distress status for more than five (5) consecutive school years from the date that the school district was classified as being in fiscal distress status.

SECTION 29. Arkansas Code § 6-20-1908(i), concerning State Board of Education action regarding fiscal distress, is amended to read as follows:

(i) Except under ~~§ 6-20-1910(d)~~ § 6-20-1910(e), the state board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in fiscal distress within five (5) consecutive school years of classification of fiscal distress status unless the state board, at its discretion, issues a written finding supported by a majority of the state board, explaining in detail that the school district could not remove itself from fiscal distress due to impossibility

1 caused by external forces beyond the school district's control.

2
3 SECTION 30. Arkansas Code § 6-20-1910(d)(1), concerning state
4 assumption of authority of a school district in fiscal distress, is amended
5 to read as follows:

6 (d) If the Commissioner of Education assumes authority over a public
7 school district in fiscal distress under ~~subsection (a) of this section § 6-~~
8 20-1909, the state board may pursue the following process for returning a
9 public school district to the local control of its residents:

10 (1) During the second full school year following ~~a school~~
11 ~~district's classification as being in fiscal distress status~~ the assumption
12 of authority, the state board shall determine the extent of the school
13 district's progress toward correcting all issues that caused the
14 classification of fiscal distress;

15
16 SECTION 31. Arkansas Code § 6-41-407 is amended to read as follows:
17 6-41-407. Accommodation for students with sensory processing
18 difficulty.

19 When administering a state-mandated assessment or a state-mandated
20 test, the Department of Education and each school district shall allow a
21 student that has been evaluated through appropriate testing, including a
22 comprehensive eye examination by an optometrist or an ophthalmologist, and
23 identified as having difficulty with sensory processing in reaction to
24 oversensitivity to full spectrum light to use color overlays specific to the
25 student's oversensitivity that alter the contrast between the words and the
26 page so that the student can visually comprehend the words on a page of a
27 state mandated assessment or a state-mandated test, if made available by the
28 test developer.

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31 **APPROVED: 03/29/2017**
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