



WAIVERS FROM ARKANSAS'S EDUCATION LAWS AND RULES

Waiver Pathways

For a quarter century, Arkansas has allowed public schools to operate under waivers from many of the state's education laws and corresponding regulations of the Division of Elementary and Secondary Education (DESE). While these first applied to a narrow category of schools in effort to promote innovative practices that would lead to higher student achievement, waivers are now available to any school district or charter system in the state.

Conversion Charter School Waiver Pathway

With Act 1126 of 1995, conversion charter schools were the first charter schools envisioned in Arkansas law. Conversion charter schools are traditional public schools that have applied to operate under a charter, usually with waivers from laws and rules governing Arkansas's education system. They enroll students from within the district in which they are located and are funded by the same tax base as other schools in their school district.

Open-Enrollment Charter School Pathway

Open-enrollment public charter schools were created by Act 890 of 1999. Operators of these schools open and operate schools that are not associated with one of Arkansas's traditional school districts. Instead, they are usually managed by nonprofit, nonsectarian organizations, but universities and other eligible entities may apply for open-enrollment charters as well. The schools are able to enroll students from across district or county boundaries, and they therefore have no tax base of their own. Open-enrollment public charter schools receive the same per-student state foundation and categorical funding as do traditional school districts.

Schools and Districts of Innovation Pathway

Act 601 of 2013 created districts and schools of innovation, which allowed these public educational entities to apply for and operate under waivers from many Arkansas laws and rules similarly to their charter counterparts. (Though the law allows the creation of districts of innovation, the applications approved so far are mostly for schools of innovation.) Funding is provided as it is for traditional or conversion charter schools.

Act 1240/Act 815 Waiver Pathway

Legislation passed in 2015 introduced another, quicker pathway to waivers that school districts can now pursue.

While any school could follow the months-long process to develop a plan and ask for any eligible waiver to become a conversion charter or a school of innovation, the new Act 1240 districts (the law does not apply to schools) could request the same waivers held by any open-enrollment charter that enrolled a student from within the school district's borders. Act 815 of 2019 amends much of Act 1240 and now allows school districts to apply for any waiver that has been granted to any open-enrollment charter school in the state. The waivers may be granted for up to five years and do not require lengthy planning or application processes. Foundation and categorical funding remain the same for schools operating under these waivers.

Minimum Size School District Waivers

Another education waiver created by legislation in 2015 is the minimum size school district waiver made possible by Act 377. As the name implies, this waiver is granted specifically to allow a school district to operate below the 350 average-daily-membership threshold set by Act 60 of the Second Extraordinary Session of 2003. It does not provide waivers from any other laws or regulations.

Process to Obtain Waivers

Each waiver pathway in Arkansas has its own application process. Waivers for charter schools must begin with the Charter Authorizing Panel – a group appointed by the Secretary of DESE comprised of division staff and others from the general public – though the State Board of Education makes the final approval. It takes about 1 ½ to 2 years to complete the full application process for charters.

Schools of Innovation applications are submitted directly to the Secretary for approval. That application process is also about 1 ½ years.

Minimum School District Size Waivers and waivers under Act 1240 and now under Act 815 are submitted directly to the State Board of Education.

Lifetime of Waivers

Depending on the type of waiver, waivers can last for as short as one-year (Minimum School District Size waivers and often waivers granted under Act 1240/Act 815 due to the school district requesting only a year's length) or for up to 20 years (open-enrollment public charter schools).