

State of Arkansas
85th General Assembly
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A Bill

SENATE BILL 1044

By: Senator Bryles
By: Representative Mahony

For An Act To Be Entitled

AN ACT TO AMEND VARIOUS PROVISIONS OF LAW
CONCERNING TEACHER LICENSURE, LOCAL SCHOOL
BOARDS, BACKGROUND CHECKS ON SCHOOL DISTRICT
EMPLOYEES, AND CHILDREN WITH DISABILITIES; AND
FOR OTHER PURPOSES.

Subtitle

AN ACT TO AMEND VARIOUS PROVISIONS OF
LAW CONCERNING TEACHER LICENSURE, LOCAL
SCHOOL BOARDS, BACKGROUND CHECKS ON
SCHOOL DISTRICT EMPLOYEES, AND CHILDREN
WITH DISABILITIES.

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

SECTION 1. Arkansas Code § 6-17-401 is amended to read as follows:

6-17-401. Teacher's license requirement.

(a) ~~No~~ Except as permitted under § 6-17-309, no teacher shall be employed in any public school of the state who is not licensed to teach in the State of Arkansas by a license issued by the State Board of Education.

(b) No license shall be valid in any county until it has been registered in the office of the county clerk.

(c) Any person who shall teach in a public school in this state without a legal certificate of qualification to teach shall not be entitled to receive for such services any compensation from the school funds.



1 SECTION 2. Arkansas Code § 6-17-402 is amended to read as follows:

2 6-17-402. Rules and regulations.

3 (a)(1) The State Board of Education shall promulgate rules and
4 regulations for the issuance, licensure, relicensure, and continuance of
5 licensure of teachers in the public schools of this state.

6 (2) In addition to other requirements, any person applying for
7 initial licensure as a teacher in the public schools or a licensed teacher
8 applying for a license in an additional area shall take and complete a test
9 recognized by the National Council for Accreditation of Teacher Education and
10 approved by the board under §§ 6-17-601 through 6-17-603, and submit the
11 scores to the Department of Education.

12 (b) No applicant for initial licensure or licensure in an additional
13 area shall receive a license unless the applicant scores at or above the
14 minimum level set by the board.

15 (c) All colleges and universities in this state shall report the
16 results of the examinations to the department upon request.

17 (d) The board shall not delegate to any college or university any of
18 the board's powers or duties pertaining to the issuance, licensure,
19 relicensure, and continuance of licensure of teachers in public schools in
20 this state.

21 (e) The board shall waive the examination requirements under
22 subsection (a) of this section for individuals applying for licensure in
23 Arkansas who have a valid out-of-state teaching license and three (3) years'
24 documented teaching experience as required by the rules and regulations
25 promulgated by the board.

26 (f) For purposes of this section, "certified teaching license"
27 includes that license of a licensed classroom teacher, administrator,
28 counselor, or librarian.

29
30 SECTION 3. Arkansas Code § 6-17-403 is amended to read as follows:

31 6-17-403. Provisional certification for teachers trained and certified
32 in other states.

33 (a) The State Board of Education is authorized to issue a one-year
34 nonrenewable provisional certificate to any teacher trained in and certified
35 by a state other than Arkansas who seeks Arkansas certification.

36 (b) Persons who have not successfully completed the National Teacher's

Examination or a similar examination designated by the board under §§ 6-17-601 through 6-17-603 and who have not previously held an Arkansas certificate but who meet degree, course work, and experience requirements for a standard certificate and who otherwise qualify to teach in the public schools of this state may receive a one-year nonrenewable provisional certificate and be employed by any public school district in this state for a period not to exceed one (1) year. Any school district which hires a teacher who has not successfully completed such examination shall not be penalized by the board provided that the length of employment of the teacher while noncertified does not exceed one (1) year.

SECTION 4. Arkansas Code § 6-17-407 is amended to read as follows:

6-17-407. License revocation - Falsifying attendance records - Investigating allegations of employee criminal misconduct.

(a)(1) The State Board of Education is directed to revoke the license of any person in this state who knowingly falsifies any attendance records kept by him or her that are used in computing the average daily attendance or average daily membership of the school district in which the person is employed, and the board is directed to revoke the license of any superintendent of schools who knowingly permits or requires any person to falsify such attendance records.

(2) Any person or superintendent of schools whose license is revoked as provided in this subsection shall not thereafter be eligible to receive a license to teach in this state.

(b)(1)(A) The superintendent of schools shall be responsible for investigating and documenting allegations of criminal misconduct as delineated in ~~§ 6-17-405~~ §§ 6-17-410 and 6-17-414 by a school district employee and involving a student or students.

(B) The investigation may be conducted by the superintendent's designee.

(2) If the superintendent finds no basis for allegations of criminal misconduct, he shall not be required to place any documents relative to such allegations or the subsequent investigation in the employee's personnel file.

(3) Results of any such investigation shall not be available for examination except by the employee or his or her duly authorized

1 representative or the office of the prosecuting attorney.

2 (4) Failure to comply with the requirements of this subsection
3 (b) shall be a Class C misdemeanor.
4

5 SECTION 5. Arkansas Code § 6-17-410 is amended to read as follows:

6 6-17-410. Teacher licensure - First-time applicant, renewal
7 application, revocation, suspension, and probation.

8 (a)(1)(A)(i) Each first-time applicant for a license issued by the
9 State Board of Education and each applicant for his or her first license
10 renewal on or after July 1, 1997, shall be required to apply to the ~~Bureau of~~
11 ~~Identification and Information~~ Identification Bureau of the Department of
12 Arkansas State Police for a statewide and nationwide criminal records check,
13 to be conducted by the Department of Arkansas State Police and the Federal
14 Bureau of Investigation.

15 (ii) The check shall conform to the applicable
16 federal standards and shall include the taking of fingerprints.

17 (iii) The Identification Bureau of the Department of
18 Arkansas State Police may maintain these fingerprints in the Arkansas Crime
19 Information Center database.

20 (iv) The Federal Bureau of Investigation shall
21 promptly destroy the fingerprint card of the applicant.

22 (B) The applicant shall sign a release of information to
23 the Department of Education and shall be responsible ~~to the Department of~~
24 ~~Arkansas State Police~~ for the payment of any fee associated with the criminal
25 records check.

26 (C)(i) The Department of Education shall be responsible ~~to~~
27 ~~the Department of Arkansas State Police~~ for the payment of any fee associated
28 with the criminal records check at the time of license renewal for employees
29 of Arkansas public school districts, employees of other public education
30 institutions located in Arkansas, and employees of the Department of
31 Education.

32 (ii) Funding for the fees shall come from the Public
33 School Fund.

34 (2) Upon completion of the criminal records check, the ~~Bureau of~~
35 ~~Identification and Information~~ Identification Bureau of the Department of
36 Arkansas State Police shall forward all releasable information obtained

1 concerning the applicant ~~in the commission of any offense listed in~~
 2 ~~subsection (e) of this section~~ to the Department of Education.

3 ~~(3) At the conclusion of any background check required by this~~
 4 ~~subsection (a), the Bureau of Identification and Information shall promptly~~
 5 ~~destroy the fingerprint card of the applicant.~~

6 (b)(1) The board is authorized to issue a six-month nonrenewable
 7 letter of provisional eligibility for licensure to a first-time applicant
 8 pending the results of the criminal records check; provided, however, the
 9 Director of the Department of Education is authorized to extend the period of
 10 provisional eligibility to the end of that contract year if:

11 (A) The applicant is employed by a local school district;
 12 and

13 (B) The results of the criminal records check are delayed.

14 (2) Upon receipt of information from the ~~Bureau of~~
 15 ~~Identification and Information~~ Identification Bureau of the Department of
 16 Arkansas State Police that the person holding a letter of provisional
 17 eligibility for licensure has pleaded guilty or nolo contendere to or has
 18 been found guilty of any offense listed in subsection (c) of this section,
 19 the board shall immediately revoke the provisional eligibility.

20 (c) The board shall not issue a first-time license nor renew an
 21 existing license and shall revoke any existing license not up for renewal of
 22 any person who has pleaded guilty or nolo contendere to or has been found
 23 guilty of any of the following offenses by any court in the State of Arkansas
 24 or of any similar offense by a court in another state or of any similar
 25 offense by a federal court but only after an opportunity for a hearing before
 26 the board upon reasonable notice in writing:

27 (1) Capital murder, as prohibited in § 5-10-101;

28 (2) Murder in the first degree and second degree, as prohibited
 29 in §§ 5-10-102 and 5-10-103;

30 (3) Manslaughter, as prohibited in § 5-10-104;

31 (4) Battery in the first degree and second degree, as prohibited
 32 in §§ 5-13-201 and 5-13-202;

33 (5) Aggravated assault, as prohibited in § 5-13-204;

34 (6) Terroristic threatening in the first degree, as prohibited
 35 in § 5-13-301;

36 (7) Kidnapping, as prohibited in § 5-11-102;

- 1 (8) Rape, as prohibited in § 5-14-103;
- 2 (9) Sexual assault in the first degree, second degree, third
- 3 degree, and fourth degree, as prohibited in § 5-14-124 - 5-14-127;
- 4 (10) Incest, as prohibited in § 5-26-202;
- 5 (11) Engaging children in sexually explicit conduct for use in
- 6 visual or print media, transportation of minors for prohibited sexual
- 7 conduct, or use of a child or consent to use of a child in a sexual
- 8 performance by producing, directing, or promoting a sexual performance by a
- 9 child, as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403;
- 10 (12) Distribution to minors, as prohibited in § 5-64-406;
- 11 (13) ~~The manufacture, delivery, or possession with intent to~~
- 12 ~~manufacture or deliver any controlled substance, as prohibited in~~ Any felony
- 13 in violation of the Uniform Controlled Substances Act, § 5-64-401 5-64-101 et
- 14 seq.;
- 15 (14) Sexual indecency with a child, as prohibited in § 5-14-110;
- 16 (15) Endangering the welfare of a minor in the first degree, as
- 17 prohibited in § 5-27-203;
- 18 (16) Pandering or possessing visual or print medium depicting
- 19 sexually explicit conduct involving a child, as prohibited by § 5-27-304;
- 20 (17) False imprisonment in the first degree, as prohibited in
- 21 § 5-11-103;
- 22 (18) Permanent detention or restraint, as prohibited in § 5-11-
- 23 106;
- 24 (19) Permitting abuse of a child, as prohibited in § 5-27-
- 25 221(a)(1) and (3);
- 26 (20) Negligent homicide, as prohibited by § 5-10-105(a);
- 27 (21) Assault in the first degree, as prohibited by § 5-13-205;
- 28 (22) Coercion, as prohibited by § 5-13-208;
- 29 (23) Public sexual indecency, as prohibited by § 5-14-111;
- 30 (24) Indecent exposure, as prohibited by § 5-14-112;
- 31 (25) Endangering the welfare of a minor in the second degree, as
- 32 prohibited by § 5-27-204;
- 33 (26) Criminal attempt, criminal solicitation, or criminal
- 34 conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to
- 35 commit any of the offenses listed in this subsection;
- 36 (27) Computer child pornography, § 5-27-603; ~~and~~

- 1 (28) Computer exploitation of a child in the first degree, § 5-
2 27-605-~~r~~;
- 3 (29) Abuse of athletic contest official as prohibited by § 5-13-
4 209;
- 5 (30) Adult abuse as prohibited by § 5-28-103;
- 6 (31) Aggravated assault on a family or household member as
7 prohibited by § 5-26-306;
- 8 (32) Arson as prohibited by § 5-38-301;
- 9 (33) Assault on family or household member in the first degree
10 as prohibited by § 5-26-307;
- 11 (34) Assault on family or household member in the second degree
12 as prohibited by § 5-26-308;
- 13 (35) Assault on family or household member in the third degree
14 as prohibited by § 5-26-309;
- 15 (36) Assault in the second degree as prohibited by § 5-13-206;
- 16 (37) Assault in the third degree as prohibited by § 5-13-207;
- 17 (38) Battery in the third degree as prohibited by § 5-13-203;
- 18 (39) Breaking and entering as prohibited by § 5-39-202;
- 19 (40) Burglary as prohibited by § 5-39-201;
- 20 (41) Incest, as prohibited by § 5-26-202;
- 21 (42) Obtaining drugs by fraud as prohibited by § 5-64-403; and
- 22 (43) Perjury as prohibited by § 5-53-102;
- 23 (44) Carrying a weapon in publicly owned buildings or facilities
24 as prohibited by § 5-73-122;
- 25 (45) Computer exploitation of a child in the second degree as
26 prohibited by § 5-27-605;
- 27 (46) Contributing to the delinquency of a juvenile as prohibited
28 by § 5-27-220;
- 29 (47) Contributing to the delinquency of a minor as prohibited by
30 § 5-27-205;
- 31 (48) Criminal attempt of offenses listed in §§ 5-3-201 and 5-3-
32 401 as prohibited by § 5-3-201;
- 33 (49) Criminal complicity as prohibited by § 5-3-202;
- 34 (50) Death threats concerning a school employee or student as
35 prohibited by § 5-17-101;
- 36 (51) Distributing, possessing, or viewing matter showing

1 explicit sexual conduct involving a child as prohibited by § 5-27-602;
 2 (52) Domestic battering in the first degree as prohibited by
 3 § 5-26-303;
 4 (53) Domestic battering in the second degree as prohibited by
 5 § 5-26-304;
 6 (54) Domestic battering in the third degree as prohibited by
 7 § 5-26-305;
 8 (55) Drug paraphernalia offense as prohibited by § 5-64-403;
 9 (56) DWI 4 or more as prohibited by § 5-65-103;
 10 (57) Endangering the welfare of incompetent person-first degree
 11 as prohibited by § 5-27-201;
 12 (58) Exposing another person to HIV as prohibited by § 5-14-123;
 13 (59) Exposing a child to chemical substance or methamphetamine
 14 as prohibited by § 5-27-230;
 15 (60) Filing a false police report as prohibited by § 5-54-122;
 16 (61) Forgery as prohibited by § 5-37-201;
 17 (62) Furnishing a deadly weapon to a minor as prohibited by § 5-
 18 73-109;
 19 (63) Furnishing a deadly weapon to a minor as prohibited by § 5-
 20 73-109;
 21 (64) Felony theft of property as prohibited by § 5-36-103;
 22
 23 (65) Possession of machine gun for offensive or aggressive
 24 purpose as prohibited by § 5-73-204;
 25 (66) Possession or use of weapon by incarcerated person as
 26 prohibited by § 5-73-131;
 27 (67) Promoting obscene materials as prohibited by § 5-68-303;
 28 (68) Promoting obscene performance as prohibited by § 5-68-304;
 29 (69) Promotion of prostitution in the first degree as prohibited
 30 by § 5-70-104;
 31 (70) Promotion of prostitution in the second degree as
 32 prohibited by § 5-70-105;
 33 (71) Promotion of prostitution in the third degree as prohibited
 34 by § 5-70-106;
 35 (72) Prostitution as prohibited by § 5-70-102;
 36 (73) Robbery as prohibited by § 5-12-102;

(74) School bus piracy as prohibited by § 5-11-107;

(75) Sexual abuse in the first degree as prohibited by § 5-14-108;

(76) Sexual abuse in the second degree as prohibited by § 5-14-109;

(77) Stalking as prohibited by § 5-71-229;

(78) Tampering with a public record as prohibited by § 5-54-121;

(79) Terroristic act as prohibited by § 5-13-310; and

(80) Terroristic threatening second degree as prohibited by § 5-13-301;

(d)(1) The revocation provisions of subsection (c) of this section may be waived or a license may be suspended or placed on probation by the board upon request by:

(A) The board of a local school district;

(B) An affected applicant for licensure; or

(C) The person holding a license subject to revocation.

(2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:

(A) The age at which the crime was committed;

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

(G) Other evidence demonstrating that the applicant does not pose a threat to the health or safety of school children or school personnel.

(e)(1) For cause as set forth in subdivision (e)(2) of this section, the board ~~shall~~ may revoke, suspend, or place on probation the license of any person but only after an opportunity for a hearing before the board upon reasonable written notice of the cause to be considered and only if a written request for a hearing is received by the board no less than thirty (30) days after the notice of the cause is received by the person holding the license.

(2) For the purposes of this subsection, "cause" means any of the following:

(A) Pleading guilty or nolo contendere to or being found

1 guilty of a felony not listed in subsection (c) of this section;

2 (B) Pleading guilty or nolo contendere to or being found
3 guilty of a nonfelony negligent homicide or a misdemeanor involving physical
4 mistreatment or abuse against a child and not listed in subsection (c) of
5 this section;

6 (C) Holding a license obtained by fraudulent means;

7 (D) Revocation of a license in another state;

8 (E) Intentionally compromising the validity or security of
9 any student test or testing program administered by or required by the state
10 board or the Department of Education;

11 (F) Having the completed examination test score of any
12 testing program required by the board for teacher licensure declared invalid
13 by the testing program company and so reported to the department by the
14 testing company;

15 (G) Having an expunged or pardoned conviction for any
16 sexual or physical abuse offense committed against a child;

17 (H) Failing to establish or maintain the necessary
18 requirements and standards set forth in Arkansas law or state board rules and
19 regulations for teacher licensure; or

20 (I) ~~Having knowingly and intentionally violated the~~
21 ~~provisions of § 6-17-301(c) and (d) or § 6-20-1201~~ Knowingly submitting or
22 providing false or misleading information or knowingly failing to submit or
23 provide information requested or required by law, to the Department of
24 Education, the State Board of Education, or the Division of Legislative
25 Audit.

26 (3) For purposes of this subsection, "child" means a person
27 enrolled in the public schools of the State of Arkansas.

28 (f)(1) The superintendent of each school district shall report to the
29 board the name of any person holding a license issued by the board and
30 currently employed or employed during the two (2) previous school years by
31 the local school district who:

32 (A) Has pleaded guilty or nolo contendere to or been found
33 guilty of a felony or any misdemeanor listed in subsection (c) of this
34 section;

35 (B) Holds a license obtained by fraudulent means;

36 (C) Has had a similar license revoked in another state;

(D) Has intentionally compromised the validity or security of any student test or testing program administered or required by the Department of Education;

(E) Has knowingly submitted falsified information or failed to submit information requested or required by law to the Department of Education, the State Board of Education, or the Division of Legislative Audit; or

(F) Has failed to establish or maintain the necessary requirements and standards set forth in Arkansas law or Department of Education rules and regulations for teacher licensure.

(2) Failure of a superintendent to report information as required by this subsection may result in sanctions imposed by the board.

(g) For cause as stated in subsection (e) of this section, the board is authorized to:

(1) Revoke a license permanently;

(2) Suspend a license for a terminable period of time or indefinitely; or

(3) Place a person on probationary status for a terminable period of time, with the license to be revoked or suspended if the probationary period is not successfully completed; ~~or~~

~~(4) Accept voluntary surrender of a license.~~

(h) Upon notice in writing that a revocation, suspension, or probation is being sought by the board for a cause set forth, a person may:

~~(1) Voluntarily surrender the license;~~

~~(2)~~(1) Decline to answer the notice, in which case a hearing will be held before the board to establish by a preponderance of the evidence that cause for the proposed action exists;

~~(3)~~(2) Contest the complaint, in which case the person shall be given an evidentiary hearing before the board if one is requested;

~~(4)~~(3) Admit the allegations of fact and request ~~an informal a~~ hearing before the board in mitigation of any penalty which may be assessed; or

~~(5)~~(4) Stipulate or reach a negotiated agreement which must be approved by the board.

(i)(1) Any information received by the Department of Education from the ~~Bureau of Identification and Information~~ Identification Bureau of the

1 Department of Arkansas State Police pursuant to subsection (a) of this
 2 section shall not be available for examination except by the affected
 3 applicant for licensure or his or her duly authorized representative, and no
 4 record, file, or document shall be removed from the custody of the
 5 department.

6 (2) Any information made available to the affected applicant for
 7 licensure or the person whose license is subject to revocation shall be
 8 information pertaining to that applicant only.

9 (3) Rights of privilege and confidentiality established herein
 10 shall not extend to any document created for purposes other than this
 11 background check.

12 (j) The board shall adopt the necessary rules and regulations to fully
 13 implement the provisions of this section.

14
 15 SECTION 6. Arkansas Code § 6-17-411 is amended to read as follows:

16 6-17-411. Criminal records check as a condition for initial employment
 17 of certified personnel.

18 (a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section,
 19 the board of directors of a local school district shall require as a
 20 condition for initial employment by the district that any person holding a
 21 license issued by the State Board of Education and making application for
 22 employment authorize release to the Department of Education of the results of
 23 statewide and nationwide criminal records checks by the ~~Bureau of~~
 24 ~~Identification and Information~~ Identification Bureau of the Department of
 25 Arkansas State Police, which conform to the applicable federal standards and
 26 include the taking of the applicant's fingerprints.

27 (B)(i) The board of directors of a local school district
 28 created by consolidation, annexation, or detachment may waive the
 29 requirements under subdivision (a)(1)(A) of this section for personnel who
 30 were employed by the affected district immediately prior to the annexation,
 31 consolidation, or detachment and who had a complete criminal background check
 32 conducted as a condition of the person's most recent employment with the
 33 affected district as required under this section.

34 (ii) As used in this section, "affected district"
 35 means a school district that loses territory or students as a result of
 36 annexation, consolidation, or detachment.

1 (2) Unless the employing school district's board of directors
2 has taken action to pay for the cost of criminal background checks required
3 by this section, the employment applicant shall be responsible ~~to the~~
4 ~~Department of Arkansas State Police~~ for the payment of any fee associated
5 with the criminal records check.

6 (3) At the conclusion of the criminal records check required by
7 this section, the ~~Bureau of Identification and Information~~ Identification
8 Bureau of the Department of Arkansas State Police shall promptly destroy the
9 fingerprint card of the affected applicant.

10 (4)(A) Any information received by the Department of Education
11 from the ~~Bureau of Identification and Information~~ Identification Bureau of
12 the Department of Arkansas State Police pursuant to this section shall not be
13 available for examination except by the affected applicant for employment or
14 his duly authorized representative, and no record, file, or document shall be
15 removed from the custody of the department.

16 (B) Any information made available to the affected
17 applicant for employment shall be information pertaining to that applicant
18 only.

19 (C) Rights of privilege and confidentiality established
20 herein shall not extend to any document created for purposes other than this
21 background check.

22 (5) The Department of Education shall promptly inform the board
23 of directors of the local school district whether or not the affected
24 applicant is eligible for employment as provided by subsection (b) of this
25 section.

26 (b)(1) No person holding a license from the State Board of Education
27 shall be eligible for employment by a local school district if the results of
28 the criminal records check released to the Department of Education by the
29 applicant reveal that the applicant has pleaded guilty or nolo contendere to
30 or has been found guilty of any offense that will or may result in license
31 revocation by the State Board of Education under ~~§§ 6-17-405 and 6-17-410.~~

32 (2) Provided, however, that the board of directors of a local
33 school district is authorized to offer provisional employment to the affected
34 applicant pending receipt of eligibility information from the Department of
35 Education.

36

SECTION 7. Arkansas Code § 6-17-414 is amended to read as follows:

6-17-414. Criminal records check as a condition for initial employment of noncertified personnel.

(a)(1)(A)(i) Except as provided in subdivision (a)(1)(C) of this section, the board of directors of a local school district or an education service cooperative shall require as a condition for initial employment in a noncertified staff position any person making application to apply to the Bureau of Identification and Information for statewide and nationwide criminal records checks, the latter to be conducted by the Federal Bureau of Investigation.

(ii) The checks shall conform to the applicable federal standards and shall include the taking of fingerprints.

(iii) The Identification Bureau of the Department of Arkansas State Police may maintain these fingerprints in the Arkansas Crime Information Center database.

(iv) The Federal Bureau of Investigation shall promptly destroy the fingerprint card of the applicant.

(B) The person shall sign a release of information to the Department of Education. Unless the employing school district board of directors has taken action to pay for the cost of criminal background checks required by this section, the employment applicant shall be responsible to ~~to the Department of Arkansas State Police~~ for the payment of any fee associated with the criminal records checks.

(C)(i) The board of directors of a local school district created by consolidation, annexation, or detachment may waive the requirements under subdivisions (a)(1)(A) and (a)(1)(B) of this section for personnel who were employed by the affected district immediately prior to the annexation, consolidation, or detachment and who had complete criminal background checks conducted as a condition of the person's most recent employment with the affected district as required under this section.

(ii) As used in this section, "affected district" means a school district that loses territory or students as a result of annexation, consolidation, or detachment.

(2) Upon completion of the criminal records check, the ~~Bureau of Identification and Information~~ Identification Bureau of the Department of Arkansas State Police shall forward all releasable information obtained

1 concerning the person ~~in the commission of any offense listed in subsection~~
 2 ~~(b) of this section to the department~~ to the Department of Education, which
 3 shall promptly inform the board of directors of the local school district or
 4 education service cooperative whether or not the applicant is eligible for
 5 employment as provided by subdivision (b)(1) of this act.

6 ~~(3) At the conclusion of any background check required by this~~
 7 ~~section, the Bureau of Identification and Information shall promptly destroy~~
 8 ~~the fingerprint card of the applicant.~~

9 (b)~~(1)~~ No person shall be eligible for employment by a local school
 10 district or education service cooperative in a noncertified staff position if
 11 that person has pleaded guilty or nolo contendere to or has been found guilty
 12 of any of the following offenses by any court in the State of Arkansas or of
 13 any similar offense by a court in another state or of any similar offense by
 14 a federal court:

15 ~~(A)~~(1) Capital murder, as prohibited in § 5-10-101;

16 ~~(B)~~(2) Murder in the first degree and second degree, as
 17 prohibited in §§ 5-10-102 and 5-10-103;

18 ~~(C)~~(3) Manslaughter, as prohibited in § 5-10-104;

19 ~~(D)~~(4) Battery in the first degree and second degree, as
 20 prohibited in §§ 5-13-201 and 5-13-202;

21 ~~(E)~~(5) Aggravated assault, as prohibited in § 5-13-204;

22 ~~(F)~~(6) Terroristic threatening in the first degree, as
 23 prohibited in § 5-13-301;

24 ~~(G)~~(7) Kidnapping, as prohibited in § 5-11-102;

25 ~~(H)~~(8) Rape, as prohibited in § 5-14-103;

26 ~~(I)~~(9) Sexual assault in the first degree, second degree, third
 27 degree, and fourth degree, as prohibited in § 5-14-124 - 5-14-127;

28 ~~(J)~~(10) Incest, as prohibited in § 5-26-202;

29 ~~(K)~~(11) Engaging children in sexually explicit conduct for use
 30 in visual or print media, transportation of minors for prohibited sexual
 31 conduct, or use of a child or consent to use of a child in a sexual
 32 performance by producing, directing, or promoting a sexual performance by a
 33 child, as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403;

34 ~~(L)~~(12) Distribution to minors, as prohibited in § 5-64-406;

35 ~~(M)~~(13) ~~The manufacture, delivery, or possession with intent to~~
 36 ~~manufacture or deliver any controlled substance, as prohibited in~~ Any felony

1 in violation of the Uniform Controlled Substances Act, § 5-64-401 § 5-64-101
 2 et seq.;

3 ~~(N)~~(14) Criminal attempt, criminal solicitation, or criminal
 4 conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to
 5 commit any of the offenses listed in this subsection;

6 ~~(O)~~(15) Sexual indecency with a child, as prohibited in § 5-14-
 7 110;

8 ~~(P)~~(16) Endangering the welfare of a minor in the first degree,
 9 as prohibited in § 5-27-203;

10 ~~(Q)~~(17) Pandering or possessing visual or print medium depicting
 11 sexually explicit conduct involving a child, as prohibited by § 5-27-304;

12 ~~(R)~~(18) False imprisonment in the first degree, as prohibited in
 13 § 5-11-103;

14 ~~(S)~~(19) Permanent detention or restraint, as prohibited in § 5-
 15 11-106;

16 ~~(T)~~(20) Permitting abuse of a child, as prohibited in § 5-27-
 17 221(a)(1) and (3);

18 ~~(U)~~(21) Negligent homicide, as prohibited by § 5-10-105(a);

19 ~~(V)~~(22) Assault in the first degree, as prohibited by § 5-13-
 20 205;

21 ~~(W)~~(23) Coercion, as prohibited by § 5-13-208;

22 ~~(X)~~(24) Public sexual indecency, as prohibited by § 5-14-111;

23 ~~(Y)~~(25) Indecent exposure, as prohibited by § 5-14-112;

24 ~~(Z)~~(26) Endangering the welfare of a minor in the second degree,
 25 as prohibited by § 5-27-204;

26 ~~(AA)~~(27) Computer child pornography, § 5-27-603; ~~and~~

27 ~~(BB)~~(28) Computer exploitation of a child in the first degree,
 28 § 5-27-605-~~r~~;

29 (29) Abuse of athletic contest official as prohibited by § 5-13-
 30 209;

31 (30) Adult abuse as prohibited by § 5-28-103;

32 (31) Aggravated assault on a family or household member as
 33 prohibited by § 5-26-306;

34 (32) Arson as prohibited by § 5-38-301;

35 (33) Assault on family or household member in the first degree
 36 as prohibited by § 5-26-307;

- 1 (34) Assault on family or household member in the second degree
2 as prohibited by § 5-26-308;
- 3 (35) Assault on family or household member in the third degree
4 as prohibited by § 5-26-309;
- 5 (36) Assault in the second degree as prohibited by § 5-13-206;
6 (37) Assault in the third degree as prohibited by § 5-13-207;
7 (38) Battery in the third degree as prohibited by § 5-13-203;
8 (39) Breaking and entering as prohibited by § 5-39-202;
9 (40) Burglary as prohibited by § 5-39-201;
10 (41) Terroristic threatening second degree as prohibited by § 5-
11 13-301;
- 12 (42) Felony theft of property as prohibited by § 5-36-103;
13 (43) Incest, as prohibited by § 5-26-202;
14 (44) Carrying a weapon in a publicly owned building or facility
15 as prohibited by § 5-73-122;
- 16 (45) Computer exploitation of a child in the second degree as
17 prohibited by § 5-27-605;
- 18 (46) Contributing to the delinquency of a juvenile as prohibited
19 by § 5-27-220;
- 20 (47) Contributing to the delinquency of a minor as prohibited by
21 § 5-27-205;
- 22 (48) Criminal attempt of offenses listed in §§ 5-3-201 and 5-3-
23 401 as prohibited by §§ 5-3-201;
- 24 (49) Criminal complicity as prohibited by § 5-3-202;
25 (50) Death threats concerning a school employee or student as
26 prohibited by § 5-17-101;
- 27 (51) Distributing, possessing, or viewing matter showing
28 explicit sexual conduct involving a child as prohibited by § 5-27-602;
- 29 (52) Domestic battering in the first degree as prohibited by
30 § 5-26-303;
- 31 (53) Domestic battering in the second degree as prohibited by
32 § 5-26-304;
- 33 (54) Domestic battering in the third degree as prohibited by
34 § 5-26-305;
- 35 (55) Drug paraphernalia offense as prohibited by § 5-64-403;
36 (56) DWI 4 or more as prohibited by § 5-65-103;

- 1 (57) Endangering the welfare of incompetent person-first degree
2 as prohibited by § 5-27-201;
- 3 (58) Exposing another person to HIV as prohibited by § 5-14-123;
4 (59) Exposing a child to chemical substance or methamphetamine
5 as prohibited by § 5-27-230;
- 6 (60) Filing a false police report as prohibited by § 5-54-122;
7 (61) Forgery as prohibited by § 5-37-201;
8 (62) Furnishing a deadly weapon to a minor as prohibited by § 5-
9 73-109;
- 10 (63) Perjury as prohibited by § 5-53-102;
11
- 12 (64) Possession of firearms by certain persons as prohibited by
13 § 5-73-103;
- 14 (65) Possession of machine gun for offensive or aggressive
15 purpose as prohibited by § 5-73-204;
- 16 (66) Possession or use of weapon by incarcerated person as
17 prohibited by § 5-73-131;
- 18 (67) Promoting obscene materials as prohibited by § 5-68-303;
19 (68) Promoting obscene performance as prohibited by § 5-68-304;
20 (69) Promotion of prostitution in the first degree as prohibited
21 by § 5-70-104;
- 22 (70) Promotion of prostitution in the second degree as
23 prohibited by § 5-70-105;
- 24 (71) Promotion of prostitution in the third degree as prohibited
25 by § 5-70-106;
- 26 (72) Prostitution as prohibited by § 5-70-102;
27 (73) Robbery as prohibited by § 5-12-102;
28 (74) School bus piracy as prohibited by § 5-11-107;
29 (75) Sexual abuse in the first degree as prohibited by § 5-14-
30 108;
- 31 (76) Sexual abuse in the second degree as prohibited by § 5-14-
32 109;
- 33 (77) Stalking as prohibited by § 5-71-229;
34 (78) Tampering with a public record as prohibited by § 5-54-121;
35 (79) Terroristic act as prohibited by § 5-13-310; and
36 (80) Obtaining drugs by fraud as prohibited by § 5-64-403;

1 ~~(2)~~(c) Provided, however, that the board of directors of a local
 2 school district or education service cooperative is authorized to offer
 3 provisional employment to an applicant pending receipt of eligibility
 4 information from the Department of Education.

5 ~~(e)~~(d)(1) Any information received by the Department of Education from
 6 the ~~Bureau of Identification and Information~~ Identification Bureau of the
 7 Department of Arkansas State Police pursuant to this act shall not be
 8 available for examination except by the affected applicant for employment or
 9 his duly authorized representative, and no record, file, or document shall be
 10 removed from the custody of the Department of Education.

11 (2) Any information made available to the affected applicant for
 12 employment shall be information pertaining to that applicant only.

13 (3) Rights of privilege and confidentiality established herein
 14 shall not extend to any document created for purposes other than this
 15 background check.

16 ~~(d)~~(e) As used in this ~~act~~ section, "noncertified staff position"
 17 means any job that does not require the person to hold a license issued by
 18 the State Board of Education and is either a full-time job, a full-time part-
 19 time job, or is a job as a substitute teacher for thirty (30) days or more
 20 during a school year.

21 ~~(e)~~(f)(1) The employment eligibility provisions of subdivision (b)(1)
 22 of this section may be waived by the state board upon request by:

23 (A) The board of a local school district; or

24 (B) An affected applicant for employment.

25 (2) Circumstances for which a waiver may be granted shall
 26 include, but not be limited to, the following:

27 (A) The age at which the crime was committed;

28 (B) The circumstances surrounding the crime;

29 (C) The length of time since the crime;

30 (D) Subsequent work history;

31 (E) Employment references;

32 (F) Character references; and

33 (G) Other evidence demonstrating that the applicant does
 34 not pose a threat to the health or safety of school children or school
 35 personnel.

36 (3) No waiver shall be granted if the state board determines

1 that the offense was a violent, physical, or sexual offense.

2 (g) The state board may determine that an applicant for employment
 3 with a school district in a noncertified staff position is ineligible for
 4 employment if the applicant:

5 (1) Has pleaded guilty or nolo contendere to or was found guilty
 6 of a felony not listed in subsection (b) of this section;

7 (2) Has pleaded guilty or nolo contendere to or was found guilty
 8 of a nonfelony negligent homicide or a misdemeanor involving physical
 9 mistreatment or abuse against a child that is not listed in subsection (b) of
 10 this section;

11 (3) Is required to pass an examination as a requirement of his
 12 or her position and the applicant's completed examination test score was
 13 declared invalid by the testing program company and was reported to the
 14 department by the testing company;

15 (4) Has an expunged or pardoned conviction for any sexual or
 16 physical abuse offense committed against a child; or

17 (5) Knowingly submits or provides false or misleading
 18 information or knowingly fails to submit or provide information requested or
 19 required by law to the Department of Education, the State Board of Education,
 20 or the Division of Legislative Audit.

21
 22 SECTION 8. Arkansas Code § 6-17-417 is amended to read as follows:

23 6-17-417. Fingerprint or name check.

24 In any instance where an individual must apply to the ~~Bureau of~~
 25 ~~Identification and Information~~ Identification Bureau of the Department of
 26 Arkansas State Police for a statewide and nationwide criminal records check
 27 as a condition for a license issued by the State Board of Education or as a
 28 condition for employment by a local school district and where a legible set
 29 of fingerprints, as determined by the bureau, cannot be obtained after a
 30 minimum of three (3) attempts, the Department of Education or the local
 31 school district shall determine eligibility for licensure or employment based
 32 upon a name check by the bureau and the Federal Bureau of Investigation.

33
 34 SECTION 9. Arkansas Code § 6-17-419 is amended to read as follows:

35 6-17-419. Expired license renewal requirements.

36 (a)(1) Any person who held a valid teaching license prior to

January 1, 1988, shall be allowed to renew that teaching license by meeting the general renewal requirements that are applicable to renewal for all other license holders and shall not be required to comply with ~~§§ 6-17-601 et seq.,~~ to take a basic skills test, to take the National Teacher's Exam, or to fulfill any other requirement that is not also required of all other teachers for license renewal.

(2) Any person who held a valid teaching license prior to January 1, 1988, shall be entitled to a provisional license by meeting the general requirements that are applicable to all other persons seeking a provisional license.

(b) This section does not allow a person whose license was revoked under ~~§§ 6-17-405 (repealed), 6-17-406—6-17-408~~ § 6-17-410 to renew his or her license.

SECTION 10. Arkansas Code § 6-17-421 is amended to read as follows:
6-17-421. Criminal records check for fraudulent acts.

(a) For purposes of this section:

(1) "Applicant" means an individual who is applying for initial employment as a fiscal officer of a school district; and

(2) "Fiscal officer" means any certified or noncertified employee of a school district or education service cooperative who has any right, duty, or responsibility to access funds of a school district in excess of ~~two hundred dollars (\$200)~~ five thousand dollars (\$5,000), specifically including, but not limited to, superintendents, fiscal officers, and bookkeepers; ~~and~~

~~(3) "Fraudulent act" means an act involving fraud or breach of fiduciary trust which is punishable under the criminal code in the jurisdiction within which the act occurred.~~

(b)(1)(A) Upon making application for employment in a position as a fiscal officer of a school district, the board of directors of a school district shall require the employment applicant to authorize release to the Department of Education the results of statewide and nationwide criminal records checks by the Bureau of Identification and Information.

(B) Unless the employing school district's board of directors has taken action to pay for the cost of criminal background checks required by this section, the employment applicant shall be responsible to

1 ~~the Department of Arkansas State Police~~ for the payment of any fee associated
2 with the criminal records check.

3 (2)(A) The criminal background check shall conform to the
4 applicable federal standards and include the taking of the employment
5 applicant's or currently employed fiscal officer's fingerprints.

6 (B) At the conclusion of the criminal records check
7 required by this section, the bureau shall promptly destroy the fingerprint
8 card of the affected employment applicant or fiscal officer.

9 (3)(A) Any information received by the Department of Education
10 from the bureau pursuant to this section shall not be available for
11 examination except by the affected employment applicant or fiscal officer or
12 his or her duly authorized representative, and no record, file, or document
13 shall be removed from the custody of the Department of Education.

14 (B) Any information made available to the affected
15 employment applicant or fiscal officer shall be information pertaining to
16 that applicant only.

17 (C) Rights of privilege and confidentiality established
18 under this section shall not extend to any document created for purposes
19 other than the background check.

20 (4) The Department of Education shall promptly inform the board
21 of directors of the local school district whether or not the affected
22 employment applicant is eligible for employment as provided in this
23 subsection (b).

24 (c)~~(1)~~ No person shall be eligible for employment as a fiscal officer
25 by a local school district if the results of the criminal records check
26 released to the Department of Education by the applicant reveals that the
27 applicant has pleaded guilty or nolo contendere to or has been found guilty
28 of a fraudulent act but only after an opportunity for a hearing before the
29 State Board of Education upon reasonable notice in writing any of the
30 following offenses by any court in the State of Arkansas or of any similar
31 offense by a court in another state or of any similar offense by a federal
32 court:

33 (1) Capital murder, as prohibited in § 5-10-101;

34 (2) Murder in the first degree and second degree, as prohibited
35 in §§ 5-10-102 and 5-10-103;

36 (3) Manslaughter, as prohibited in § 5-10-104;

- 1 (4) Negligent homicide, as prohibited in § 5-10-105;
- 2 (5) Kidnapping, as prohibited in § 5-11-102;
- 3 (6) False imprisonment in the first degree, as prohibited in
4 § 5-11-103;
- 5 (7) Permanent detention or restraint, as prohibited in § 5-11-
6 106;
- 7 (8) Robbery, as prohibited in § 5-12-102;
- 8 (9) Aggravated robbery, as prohibited in § 5-12-103;
- 9 (10) Battery in the first degree, as prohibited in § 5-13-201;
- 10 (11) Aggravated assault, as prohibited in § 5-13-204;
- 11 (12) Introduction of controlled substance into body of another
12 person, as prohibited in § 5-13-210;
- 13 (13) Terroristic threatening in the first degree, as prohibited
14 in § 5-13-301;
- 15 (14) Rape, as prohibited in § 5-14-103;
- 16 (15) Sexual indecency with a child, as prohibited in § 5-14-110;
- 17 (16) Sexual assault in the first degree, second degree, third
18 degree, and fourth degree, as prohibited in §§ 5-14-124 - 5-14-127;
- 19 (17) Incest, as prohibited in § 5-26-202;
- 20 (18) Offenses against the family, as prohibited in §§ 5-26-303 -
21 5-26-306;
- 22 (19) Endangering the welfare of an incompetent person in the
23 first degree, as prohibited in § 5-27-201;
- 24 (20) Endangering the welfare of a minor in the first degree, as
25 prohibited in § 5-27-203;
- 26 (21) Permitting abuse of a child, as prohibited in § 5-27-
27 221(a)(1) and (3);
- 28 (22) Engaging children in sexually explicit conduct for use in
29 visual or print medium, transportation of minors for prohibited sexual
30 conduct, pandering or possessing visual or print medium depicting sexually
31 explicit conduct involving a child, or the use of a child or consent to the
32 use of a child in a sexual performance by producing, directing, or promoting
33 a sexual performance by a child, as prohibited in §§ 5-27-303 - 5-27-305, 5-
34 27-402, and 5-27-403;
- 35 (23) Felony adult abuse, as prohibited in § 5-28-103;
- 36 (24) Theft of property, as prohibited in § 5-36-103;

- 1 (25) Theft by receiving, as prohibited in § 5-36-106;
 2 (26) Arson, as prohibited in § 5-38-301;
 3 (27) Burglary, as prohibited in § 5-39-201;
 4 (28) Felony violation of the Uniform Controlled Substances Act,
 5 §§ 5-64-101 – 5-64-608, as prohibited in § 5-64-401;
 6 (29) Promotion of prostitution in the first degree, as
 7 prohibited in § 5-70-104;
 8 (30) Stalking, as prohibited in § 5-71-229;
 9 (31) Criminal attempt, criminal complicity, criminal
 10 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,
 11 5-3-301, and 5-3-401, to commit any of the offenses listed in this
 12 subsection;
 13 (32) Computer child pornography, as prohibited in § 5-27-603;
 14 and
 15 (33) Computer exploitation of a child in the first degree, as
 16 prohibited in § 5-27-605.

17 ~~(2) However, the~~ (d) The board of directors of a local school
 18 district is authorized to offer provisional employment to the affected
 19 applicant pending receipt of eligibility information from the Department of
 20 Education.

21 ~~(d)-(1)(e)(1)~~ (1) The superintendent of each school district shall report to
 22 the state board the name of any fiscal officer who is currently employed or
 23 was employed during the two (2) previous school years by the local school
 24 district who has pleaded guilty or nolo contendere to or has been found
 25 guilty of ~~a fraudulent act~~ an offense listed in subsection (c) of this
 26 section.

27 (2) A superintendent who knowingly fails to report information
 28 as required by this subsection may be subject to sanctions imposed by the
 29 state board.

30 ~~(e)-(f)~~ (f) A prosecuting attorney who prosecutes a person whom he or she
 31 knows is a school employee in a case in which the school employee has pleaded
 32 guilty or nolo contendere to or has been found guilty of ~~a fraudulent act~~ an
 33 offense listed in subsection (c) of this section shall report the name of the
 34 employee and the nature of the crime to the school district in which the
 35 person is employed and to the state board.

36 ~~(f)-(g)~~ (g) A fiscal officer who pleads guilty or nolo contendere to or has

1 been found guilty of ~~a fraudulent act~~ an offense listed in subsection (c) of
 2 this section shall be dismissed from employment with the school district but
 3 only after an opportunity for a hearing before the state board upon
 4 reasonable notice in writing.

5 ~~(g)(1)~~(h)(1) The state board shall be entitled to consider:

6 (A) The age of the fiscal officer at the time the criminal
 7 act occurred;

8 (B) The length of time since the conviction;

9 (C) Whether the fiscal officer has pleaded guilty or nolo
 10 contendere to or has been found guilty of any other criminal violation since
 11 the original conviction;

12 (D) Whether the original conviction was expunged or
 13 pardoned; and

14 (E) Any other relevant facts.

15 (2) The state board after conducting a hearing and issuing a
 16 decision in writing may determine not to prevent the employment or not to
 17 require the termination of employment of the fiscal officer as required in
 18 subsections (c) and (f) of this section.

19
 20 SECTION 11. Arkansas Code § 6-13-604 is amended to read as follows:

21 6-13-604. Districts with five or more directors - Increase in number.
 22 [Effective July 1, 2000.]

23 (a) The board of directors of any school district in this state which
 24 now has or which is authorized to have five (5) or more directors may file a
 25 petition with the State Board of Education requesting an increase in the
 26 number of directors for such district to ~~any number not to exceed~~ seven (7).
 27 Provided, in any school district in the state having an average daily
 28 attendance of twenty-four thousand (24,000) or more, the petition may request
 29 that the board of directors for the district be increased to nine (9)
 30 members.

31 (b) Notice of the filing of such petition shall be published within
 32 ten (10) days thereafter for one (1) insertion in some newspaper having a
 33 general circulation in the district.

34 (c) Upon a showing that the increase will be for the benefit of the
 35 district petitioning for it, the State Board of Education is authorized to
 36 increase the number of directors for such district to ~~any number not to~~

1 ~~exceed~~ seven (7) or ~~not to exceed~~ nine (9) in the case of a school district
 2 having an average daily attendance of twenty-four thousand (24,000) or more.

3 (d) The order directing such increase shall be entered not more than
 4 sixty (60) days after the publication of notice.

5 (e) The additional directors shall be appointed in the manner
 6 prescribed by law to serve until the next regular school election.

7 (f) All directors so appointed shall serve until their successors are
 8 elected and qualified.

9 (g) The additional directors authorized by this section shall be
 10 elected for the same term as other directors on the respective boards.

11 (h) All boards of directors shall be made up of five (5), seven (7),
 12 or nine (9) members as allowed by law.

13 (i) No board of directors shall have an even number of directors.

14 (j) Any change in the number of directors serving on the local school
 15 board of directors required under this act shall be effective upon the
 16 directors' taking office following the 2005 annual school election.

17
 18 SECTION 12. Arkansas Code § 6-13-606 is amended to read as follows:

19 6-13-606. Districts with more than five directors - Decrease in
 20 number. [Effective July 1, 2000.]

21 (a) The board of directors of any school district in this state which
 22 now has or which is authorized to have ~~more than five (5)~~ seven (7) or nine
 23 (9) directors may file a petition with the State Board of Education
 24 requesting a decrease in the number of directors for that district to ~~any~~
 25 ~~number not fewer than~~ five (5) or seven (7).

26 (b) Notice of the filing of the petition shall be published within ten
 27 (10) days thereafter by one (1) insertion in some newspaper having a general
 28 circulation in the district.

29 (c) Upon a showing that such decrease will not be detrimental to the
 30 district petitioning for it, the state board is authorized to decrease the
 31 number of directors for the district to ~~any number not fewer than~~ five (5) or
 32 seven (7).

33 (d) The order directing such decrease shall be entered not more than
 34 sixty (60) days after the publication of notice.

35 (e) Pursuant to the order and as soon as possible thereafter, the
 36 members of the board of directors shall draw by lot for the number of

1 positions determined.

2 (f) The remaining directors shall continue to serve their unexpired
3 terms.

4 (g) All boards of directors shall be made up of five (5), seven (7),
5 or nine (9) members as allowed by law.

6 (h)(1) No board of directors shall have an even number of directors.

7 (2) No less than ninety (90) days prior to the next annual
8 school election, any school district with an even number of directors shall
9 file a petition with the State Board of Education to establish the requisite
10 odd number of directors.

11 (3) If the number of board members needs to be reduced to create
12 a required odd number of directors, the board of directors in office on the
13 effective date of this subsection (h) shall draw lots to determine which
14 board positions will be eliminated.

15 (i) Any change in the number of directors serving on the local school
16 board of directors required under this act shall be effective upon the
17 directors' taking office following the 2005 annual school election.

18
19 SECTION 13. Arkansas Code § 6-13-634 is amended to read as follows:

20 6-13-634. School district board of directors - Size. [Effective
21 July 1, 2000.]

22 (a) ~~As of July 1, 2000, all~~ All school districts shall have a board of
23 directors with ~~no fewer than~~ five (5) members, ~~and no more than~~ seven (7)
24 members, or ~~no more than~~ nine (9) members in the case of a school district
25 having an average daily attendance of twenty-four thousand (24,000) or more.

26 (b) Subsection (a) of this section shall not apply to those school
27 districts which have a board of directors of ~~more than~~ seven (7) members, or
28 ~~no more than~~ nine (9) members in the case of a school district having an
29 average daily attendance of twenty-four thousand (24,000) or more, if that
30 school district is operating under a court order or a consolidation agreement
31 that provides for a board of directors.

32 (c)(1) No board of directors shall have an even number of directors.

33 (2) No less than ninety (90) days prior to the next annual
34 school election, any school district with a even number of directors shall
35 file a petition with the State Board of Education to establish the requisite
36 odd number of directors.

1 (3) If the number of board members needs to be reduced to create
 2 an odd number of directors, the board of directors in office on the effective
 3 date of this subsection (c) shall draw lots to determine which board
 4 positions will be eliminated.

5 (d) Any change in the number of directors serving on the local school
 6 board of directors required under this act shall be effective upon the
 7 directors' taking office following the 2005 annual school election.

8
 9 SECTION 14. Arkansas Code § 6-15-902(d), concerning the uniform
 10 grading scale for high school students, is repealed.

11 ~~(d) A notation shall be made on a student's transcript to indicate~~
 12 ~~each special education class included on the transcript.~~

13
 14 SECTION 15. Arkansas Code § 6-16-102(a), pertaining to the definition
 15 of "school day", is amended to read as follows:

16 (a)(1) As used in this section, unless the context otherwise requires,
 17 "school day" shall mean a day in which classes are in session and students
 18 receive ~~not fewer than~~ at least six (6) hours of instructional time.

19 (2) Any day in which fewer than six (6) hours of instructional
 20 time ~~is~~ are provided to students shall be counted as one-half (1/2) of a
 21 school day if at least three (3) hours of instructional time ~~is~~ are provided
 22 to students.

23 (3) Any day in which fewer than three (3) hours of instructional
 24 time ~~is~~ are provided to students shall not be counted as any part of a school
 25 day.

26 (4) Instructional time shall not include travel time between
 27 schools within a school district by a student attending classes and programs
 28 authorized by § 6-18-228.

29
 30 SECTION 16. Arkansas Code § 6-17-309 is amended to read as follows:

31 6-17-309. Certification – Waiver.

32 (a)(1) No class of students shall be under the instruction of a
 33 teacher who is not certified to teach the grade level or subject matter of
 34 the class for more than thirty (30) consecutive school days in the same class
 35 during a school year.

36 (2) This provision shall not apply to:

1 (A) ~~nondegreeed~~ Nondegreeed vocational-technical teachers
2 ~~and those;~~

3 (B) Those persons approved by the Department of Education
4 to teach the grade level or subject matter of the class in the department's
5 distance learning program; and

6 (C) Those persons teaching concurrent credit courses or
7 advanced placement courses who:

8 (i) Are employed by a postsecondary institution;

9 (ii) Meet the qualification requirements of that
10 institution or the Department of Workforce Education; and

11 (iii) Are teaching in a course in which credit is
12 offered by an institution of higher education or a technical institute.

13 (b)(1) If this requirement imposes an undue hardship on a school
14 district, the district may apply to the State Board of Education for a
15 waiver.

16 (2) The board shall develop rules and regulations for granting a
17 waiver.

18 (3) Any school district that obtains a waiver shall send written
19 notice of the assignment to the parent or guardian of each student in the
20 classroom no later than the thirtieth school day after the date of the
21 assignment.

22
23 SECTION 17. Arkansas Code § 6-17-409 is amended to read as follows:

24 6-17-409. ~~Grants for alternative teacher~~ Nontraditional licensure
25 certification.

26 (a) The Department of Education may offer and operate a nontraditional
27 licensure program.

28 ~~(a)(b)~~ (b) The ~~Department of Education~~ department is hereby authorized to
29 provide grants of financial assistance, ~~not to exceed five hundred dollars~~
30 ~~(\$500),~~ to entities that train individuals seeking to obtain ~~alternative~~
31 ~~teacher~~ nontraditional licensure certification through the ~~alternative~~
32 nontraditional certification process administered by the department. The
33 ~~grants shall be paid by the department~~ shall pay the grants from funds
34 appropriated by the General Assembly to the department for such purpose.

35 ~~(b)(c)~~ (c) The department is hereby authorized to promulgate rules and
36 regulations to determine eligibility for and amount of awards of the grants

1 concerning the operation of the nontraditional licensure program authorized
 2 by this section, and for such other purposes as may be necessary in carrying
 3 out the intent of this section.

4
 5 SECTION 18. Arkansas Code § 6-18-215 is amended to read as follows:

6 6-18-215. School enrollment census - Determining student dropout
 7 rates.

8 (a)(1)(A) On or before October 1 of each school year, a public school
 9 shall conduct a census of all students enrolled at the school to arrive at a
 10 school enrollment census total for each grade.

11 (B) The number of students transferring into the school
 12 after October 1 ~~but before the end of the school year~~ through September 30 of
 13 the following school year shall be added to the October 1 school enrollment
 14 census total for each grade.

15 (C) The number of students transferring out of the school
 16 after October 1 ~~but before the end of the school year~~ through September 30 of
 17 the following school year shall be subtracted from the October 1 school
 18 enrollment census total for each grade.

19 (2) The number of students transferring into or out of a school
 20 shall be based on the number of official transcripts ~~received from other~~
 21 ~~schools and the number of transcripts~~ requested by other schools.

22 (3) Each school shall maintain separate records regarding
 23 students who ~~after October 1 of each school year~~ leave the public school
 24 system to be home-schooled under § 6-15-503.

25 (b) The school enrollment census total as calculated and adjusted
 26 under subsection (a) of this section shall be used to determine the dropout
 27 rate for each school as follows:

28 (1) For grades ~~kindergarten through eleven (K-11)~~ two through
 29 twelve (2-12), the school enrollment census total for the current school year
 30 is compared to the school enrollment census total for each of the previous
 31 grades of the previous school year; and

32 (2) For grade ~~twelve (12)~~ one (1), the school enrollment census
 33 total for the current school year ~~school enrollment census total for grade~~
 34 ~~twelve (12)~~ is compared to the school enrollment census total for ~~grade~~
 35 ~~eleven (11)~~ the kindergarten class of the previous year.

36 (c) The graduation rates, as defined by the Department of Education,

1 shall be tracked for students in grades nine through twelve (9-12).

2 (d) The department shall use this section for in-state reporting
3 purposes related to school dropout rates.

4 (e) The State Board of Education shall promulgate rules to require
5 school districts to report graduation and dropout ~~rates~~ data each year in
6 accordance with this section.

7
8 SECTION 19. Arkansas Code § 6-20-2002 is amended to read as follows:
9 6-20-2002. Definitions.

10 As used in this subchapter:

11 (1) "Athletic expenditures" means all direct and indirect
12 expenses related to interschool athletic programs, prorated if necessary,
13 including, but not limited to:

14 (A) Salaries or supplemental pay for staff for interschool
15 athletic programs, excluding salaries received for duties as a classroom
16 teacher;

17 (B) All fringe benefits, including, but not limited to,
18 medical and dental insurance, workers' compensation, pension plans, and any
19 other costs associated with employment of staff for interschool athletic
20 programs;

21 (C) Travel, including bus-related operation and
22 maintenance;

23 (D) Equipment;

24 (E) Meals;

25 (F) Supplies;

26 (G) Property and medical insurance;

27 (H) Medical expenses;

28 (I) Utilities; and

29 (J) Maintenance of facilities related to interschool
30 athletic teams and spirit groups, excluding bands;

31 (2) "Classroom teacher" means an individual who is required to
32 hold a teaching license from the Department of Education and who is engaged
33 directly in instruction with students in a classroom setting for more than
34 seventy percent (70%) of the individual's contracted time;

35 (3) "Interschool athletic program" means+

36 ~~(A) Any~~ any athletic program which is organized primarily

1 for the purpose of competing with other schools, public or private; or

2 ~~(B) Any athletic program which is subject to regulation by~~
 3 ~~the Arkansas Activities Association; and~~

4 (4) "State funds" means all money derived from state revenues,
 5 specifically including, but not limited to, distributions from the Department
 6 of Education Public School Fund Account and ad valorem property taxes
 7 distributed to a public school or school district.

8
 9 SECTION 20. Arkansas Code Title 25, Chapter 6, Subchapter 1 is amended
 10 to add an additional section to read as follows:

11 25-6-107. Local education agency – Numbers.

12 (a)(1) The Department of Education is the sole and official issuer of
 13 local education agency numbers to educational entities in the state.

14 (2) These numbers shall be issued, activated, deactivated, or
 15 changed according to the annual schedule and in a format established by the
 16 Department of Education.

17 (b) Notwithstanding any other provision of law, an educational entity
 18 shall not be recognized as a public school district or entitled to the rights
 19 and privileges of a school district solely because the educational entity has
 20 been assigned a local educational number.

21 (c) The State Board of Education shall adopt the necessary rules to
 22 fully implement this section.

23
 24 SECTION 21. Arkansas Code § 6-13-1601 is amended to read as follows:

25 6-13-1601. Definitions.

26 As used in this subchapter:

27 (1) "Administrative annexation" means the joining of an affected
 28 school district or a part of the school district with a receiving district;

29 (2) "Administrative consolidation" means the joining of two (2)
 30 or more school districts to create a new single school district with one (1)
 31 administrative unit and one (1) board of directors that is not required to
 32 close school facilities;

33 (3) "Affected district" means a school district that loses
 34 territory or students as a result of administrative annexation or
 35 consolidation;

36 (4)(A) "Average daily membership" means the total number of days

attended plus the total number of days absent by students in grades kindergarten through twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the district during that period of time rounded up to the nearest hundredth.

(B) Students who may be counted for average daily membership are:

(i) Students who reside within the boundaries of the school district and who are enrolled in a public school operated by the district or a private school for special education students, with their attendance resulting from a written tuition agreement approved by the Department of Education;

(ii) Legally transferred students living outside the district but attending a public school in the district; and

(iii) Students who reside within the boundaries of the school district and who are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are participants in the program;

~~(5) "Consolidated average daily membership" means the sum of the average daily membership for each school district included in a consolidation if the average daily membership for the school district was five hundred (500) or fewer for the school year immediately preceding the school year for which the consolidation becomes effective;~~

~~(6) "Consolidated national school lunch student total" means the sum of national school lunch students in each school district included in a consolidation if the average daily membership for the school district was five hundred (500) or fewer for the school year immediately preceding the school year for which the consolidation becomes effective;~~

~~(7) "National school lunch students" means those students from low socioeconomic backgrounds as indicated by the eligibility for free or reduced-price meals under the National School Lunch Act as calculated on October 1 of each year and submitted to the Department of Education;~~

~~(8)~~(5) "Receiving district" means a school district or districts that receive territory or students, or both, from an affected district as a result of administrative annexation; and

~~(9)~~(6) "Resulting district" means the new school district created from an affected district or districts as a result of administrative consolidation.

1
2 SECTION 22. Arkansas Code § 6-13-1602 is amended to read as follows:

3 6-13-1602. Administrative consolidation list.

4 By February 1, 2004, and each ~~February 1~~ January 1 thereafter, the
5 Department of Education shall publish a consolidation list that includes all
6 school districts with fewer than three hundred fifty (350) students according
7 to the district's average daily membership in each of the two (2) school
8 years immediately preceding the current school year.

9
10 SECTION 23. Arkansas Code § 6-13-1603 is amended to read as follows:

11 6-13-1603. Administrative reorganization.

12 (a)(1) Any school district included in the Department of Education's
13 consolidation list ~~pursuant to~~ under § 6-13-1602 may voluntarily agree to
14 administratively consolidate with or be annexed to another district or
15 districts in accordance with the requirements and limitations of this
16 section.

17 (2)(A) Any school district on the consolidation list choosing to
18 voluntarily administratively consolidate or annex shall submit a petition for
19 approval to the State Board of Education by ~~April 1~~ February 1 immediately
20 following publication of the list and shall set forth the terms of the
21 administrative consolidation or annexation agreement in the plan.

22 (B) If the petition is approved by the state board, the
23 administrative consolidation or annexation shall be completed by ~~June 1~~
24 May 1, to be effective the July 1 immediately following the publication of
25 the list required under § 6-13-1602.

26 (3) Any school district on the consolidation list that does not
27 submit a petition ~~pursuant to~~ under subdivision (a)(2)(A) of this section or
28 that does not receive approval by the state board for a voluntary
29 consolidation or annexation petition shall be administratively consolidated
30 by the state board with or into one (1) or more school districts by ~~June 1~~
31 May 1, to be effective the July 1 immediately following the publication of
32 the list required under § 6-13-1602.

33 (4) The state board shall promptly consider petitions or move on
34 its own motion to administratively consolidate a school district on the
35 consolidation list in order to enable the affected school districts to
36 reasonably accomplish any resulting administrative consolidation or

1 annexation by July 1 immediately following the publication of the list
2 required under § 6-13-1602.

3 (5) The state board shall not deny the petition for voluntary
4 administrative consolidation or annexation of any two (2) or more school
5 districts unless:

6 (A) The provisions contained in the articles of
7 administrative consolidation or annexation would violate state or federal
8 law; or

9 (B) The voluntary consolidation or annexation would not
10 contribute to the betterment of the education of students in the districts.

11 (b) Any school district required to be administratively consolidated
12 under this subchapter shall be administratively consolidated in such a manner
13 as to create a resulting district with an average daily membership meeting or
14 exceeding three hundred fifty (350).

15 (c) All administrative consolidations or annexations under this
16 section shall be accomplished so as not to create a school district that
17 hampers, delays, or in any manner negatively affects the desegregation of
18 another school district in this state.

19 (d) In the administratively consolidated or annexed school districts
20 created under this subchapter, the ad valorem tax rate shall be determined as
21 set forth under § 6-13-1409.

22 (e) Nothing in this section shall be construed to require the closing
23 of any school or school facility.

24 ~~(f) No school facility in a school district included in the~~
25 ~~consolidation list required by § 6-13-1602 shall be closed by the state board~~
26 ~~or a local school board until after completion of an assessment of public~~
27 ~~school facilities by the Joint Committee on Educational Facilities as~~
28 ~~required by Act 1181 of 2003, but in no event shall any be closed prior to~~
29 ~~June 1, 2005.~~

30 ~~(g)~~(f) No administratively consolidated or annexed school district
31 shall have more than one (1) superintendent.

32 ~~(h)~~(g) No Any school district not designated as being in academic or
33 fiscal distress for the current school year or previous two (2) school years
34 that administratively consolidated with receives by consolidation or
35 annexation a school district designated by the state board as being in
36 academic or fiscal distress at the time of consolidation or annexation shall

1 not be subject to academic or fiscal distress sanctions for a period of three
2 (3) years from the effective date of consolidation unless:

3 (1) The school district fails to meet minimum teacher salary
4 requirements; or

5 (2) The school district fails to comply with the Standards for
6 Accreditation of Arkansas Public Schools issued by the department.

7 ~~(i)~~(h) Noncontiguous school districts may voluntarily consolidate if
8 the facilities and physical plant of each school district:

9 (1) Are within the same county, and the state board approves the
10 administrative consolidation; or

11 (2) Are not within the same county, and the state board approves
12 the administrative consolidation or annexation and finds that:

13 (A) The consolidation or annexation will result in the
14 overall improvement in the educational benefit to students in all of the
15 school districts involved; or

16 (B) The consolidation or annexation will provide a
17 significant advantage in transportation costs or service to all of the school
18 districts involved.

19 ~~(j)~~(i) Contiguous districts may administratively consolidate even if
20 they are not in the same county.

21 ~~(k)~~(j) The state board shall promulgate rules to facilitate the
22 administration of this subchapter.

23 ~~(l)~~(k) The provisions of § 6-13-1406 shall govern the board of
24 directors of each resulting or receiving school district created under this
25 subchapter.

26
27 SECTION 24. Arkansas Code § 6-13-1604 is repealed.

28 ~~6-13-1604. Administrative consolidation assistance funds. [Effective~~
29 ~~until June 3, 2004.]~~

30 ~~(a) The state shall pay administrative consolidation assistance funds~~
31 ~~to each school district that:~~

32 ~~(1) Is administratively consolidated or annexed by the State~~
33 ~~Board of Education under § 6-13-1603 by July 1, 2005; or~~

34 ~~(2) Has an average daily membership of at least three hundred~~
35 ~~fifty (350) and no more than five hundred (500) for each of the two (2)~~
36 ~~school years preceding the school year in which the administrative~~

~~consolidation or annexation petition is filed and voluntarily petitions and receives approval from the state board to administratively consolidate or annex prior to July 1, 2004.~~

~~(b) Administrative consolidation assistance funds shall be paid in an amount equal to:~~

~~(1) Eight hundred dollars (\$800) multiplied by the consolidated average daily membership; plus~~

~~(2) Seven hundred dollars (\$700) multiplied by the consolidated national school lunch student total.~~

~~(c)(1) Administrative consolidation assistance funds may be used by the school districts for any purpose.~~

~~(2) However, the state board by rule may require funds to be expended on the construction or improvement of school facilities.~~

~~(d) The funds shall be paid to the resulting administratively consolidated or annexed school district during the first year of the consolidated or annexed district's existence.~~

SECTION 25. Arkansas Code § 6-13-1604 is repealed.

~~6-13-1604. Administrative consolidation assistance funds. [Effective June 3, 2004.]~~

~~(a)(1) The state shall pay administrative consolidation assistance funds to each school district that:~~

~~(A) Is administratively consolidated or annexed by the State Board of Education under § 6-13-1603 by July 1, 2004; or~~

~~(B) Has an average daily membership of at least three hundred fifty (350) and no more than five hundred (500) for each of the two~~

~~(2) school years preceding the school year in which the administrative consolidation or annexation petition is filed and voluntarily petitions and receives approval from the state board to administratively consolidate or annex prior to July 1, 2004.~~

~~(2) Administrative consolidation assistance funds provided under subsection (a) of this section shall be paid in an amount equal to:~~

~~(A) Eight hundred dollars (\$800) multiplied by the consolidated average daily membership, but the consolidated average daily membership number used in this calculation shall not exceed seven hundred (700) students; plus~~

~~(B)—Seven hundred dollars (\$700) multiplied by the consolidated national school lunch student total, but the consolidated national school lunch student total used in this calculation shall not exceed seven hundred (700) national school lunch students.~~

~~(b)(1)—To the extent that funding is available after the administrative consolidation assistance funds allowed under subsection (a) of this section are provided to all eligible school districts, the state shall pay administrative consolidation assistance funds to each school district that:~~

~~(A)—Has an average daily membership of more than five hundred (500) for each of the two (2) school years preceding the school year in which the administrative consolidation or annexation petition is filed; and~~

~~(B)—Administratively consolidates or annexes with another school district by July 1, 2004.~~

~~(2)(A)—Administrative consolidation assistance funds under subsection (c) of this section shall be paid in an amount equal to:~~

~~(i)—Eight hundred dollars (\$800) multiplied by the resulting district's average daily membership, but the resulting district's average daily membership number used in this calculation shall not exceed seven hundred (700) students; and~~

~~(ii)—Seven hundred dollars (\$700) multiplied by the resulting district's national school lunch student total, but the resulting district's national school lunch student total used in this calculation shall not exceed seven hundred (700) national school lunch students.~~

~~(B)—If there is insufficient funding available to pay the amounts under this subsection, those amounts shall be reduced by the Department of Education in such a manner as to provide equal administrative consolidation assistance funds per student to the school districts that are eligible for funding under subsection (c) of this section.~~

~~(c)—A school district that is eligible to receive funding under both subsection (a) and subsection (b) of this section shall first receive funding under subsection (a) of this section and then shall receive funding under subsection (b) of this section, but a school district shall not receive total funding for more than seven hundred (700) students under both subsections (a) and (b) of this section.~~

~~(d)(1) Administrative consolidation assistance funds may be used by the school districts for any purpose.~~

~~(2) However, the state board by rule may require funds to be expended on the construction or improvement of school facilities.~~

~~(e) The funds shall be paid to the resulting administratively consolidated or annexed school district during the first year of the consolidated or annexed district's existence.~~

SECTION 26. Arkansas Code § 6-13-1605 is repealed:

~~6-13-1605. Charter schools.~~

~~The provisions of § 6-13-1601—1604 shall not apply to charter schools in existence on January 29, 2004, or to schools achieving charter status by June 1, 2005.~~

SECTION 27. Educational cost reimbursement prohibition.

(a) The Arkansas Department of Education, public school districts, or open-enrollment charter schools shall not be responsible or liable for any educational cost or other costs associated with placement of a juvenile in an in-state or out-of-state residential or inpatient facility for any care and treatment, including psychiatric treatment, unless:

(1) Payment is required under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and

(2) The Department of Education authorizes public payment for educational costs based on a determination that the educational facilities are appropriate for the juvenile and has approved the facility's educational programs.

(b) Under no circumstances shall the Department of Education, public school districts, or open-enrollment charter schools be responsible or liable for the educational or other costs associated with nondisabled students placed in out-of-state residential or inpatient facilities for any care and treatment, including psychiatric treatment.

(c) To the extent the Department of Education, public school district, or open-enrollment charter school is responsible for the educational cost of a juvenile under subsection (a) of this section, the educational cost shall be limited to the lesser amount of the Department of Education-approved rate or the placement state's normal and customary educational cost reimbursement

1 rate as determined by the Department of Education.

2 (d) This subsection shall not apply to juveniles placed in Arkansas
3 juvenile detention centers.

4 (e) Nothing in this section shall be construed to establish an
5 obligation prior to the effective date of this section to pay educational
6 costs or other costs associated with the placement of a juvenile in an in-
7 state or out-of-state residential or inpatient facility for any care or
8 treatment, including psychiatric treatment, prior to the effective date of
9 this section.

10
11 SECTION 28. Arkansas Code § 6-41-202 is amended to read as follows:
12 6-41-202. Policy and purposes.

13 (a) It shall be the policy of this state to provide and to require
14 school districts to provide, as an integral part of the public schools, a
15 free appropriate public education for students with disabilities. The State
16 Board of Education is therefore expressly authorized to assign responsibility
17 for providing free appropriate public education of any child with a
18 disability to an appropriate school district.

19 (b)(1) One of the purposes of this subchapter is to cooperate in any
20 reasonable way with programs now in operation for children with disabilities
21 in any state institution or treatment facility.

22 (2) It shall be a primary purpose of this subchapter to
23 cooperate ~~fully~~ with the institutions and treatment facilities to the end
24 that the ~~best~~ educational interests of children with disabilities shall be
25 served.

26
27 SECTION 29. Arkansas Code § 6-41-211 is amended to read as follows:
28 6-41-211. Advisory Council for the Education of Children with
29 Disabilities.

30 (a)(1) There shall be an Advisory Council for the Education of
31 Children with Disabilities, which shall advise and consult with the Director
32 of Education of the Department of Education and the Associate Director of the
33 Special Education Section of the Department of Education, and which shall
34 engage in such other activities as are set forth in this section.

35 (2) The advisory council shall be advisory only and shall have
36 no administrative responsibility or authority.

(b)(1) The advisory council shall be composed of individuals involved in, or concerned with, the education of children with disabilities, including:

(A) Parents of ~~children~~ persons from birth to age twenty-six (26) with disabilities;

(B) Individuals with disabilities;

(C) Teachers;

(D) Representatives of institutions of higher education that prepare special education and related services personnel;

(E) State and local education officials, including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431 et seq.;

(F) Administrators of programs for children with disabilities;

(G) Representatives of other state agencies involved in the financing or delivery of related services to children with disabilities;

(H) Representatives of private schools and public charter schools;

(I) ~~One~~ Not less than one (1) representative of a vocational, community, or business organization concerned with the provision of transitional services to children with disabilities; ~~and~~

(J) Representatives from the state juvenile and adult corrections agencies; and

(K) A representative from the Arkansas child welfare agency responsible for foster care.

(2) A majority of the members of the panel shall be individuals with disabilities or parents of ~~children~~ persons from birth to age twenty-six (26) with disabilities.

(c)(1) The director shall appoint the members of the advisory council for three-year terms.

(2) Appointees may be eligible for reappointment for one (1) term.

(d) Vacancies which leave unexpired terms shall be filled in the regular manner for the unexpired period of time, and vacancies as a result of expiration of terms shall be filled in the regular manner for three-year periods.

1 (e) The advisory council annually shall elect its own chairman and
2 vice chairman.

3 (f) The associate director shall meet with and act as secretary to the
4 advisory council and, subject to the availability of personnel, facilities,
5 and appropriations, shall furnish meeting facilities and staff services for
6 the advisory council.

7 (g) The advisory council shall:

8 (1) Advise the Department of Education of unmet needs within the
9 state in the education of children with disabilities;

10 (2) Comment publicly on any rules or regulations proposed by the
11 state regarding the education of children with disabilities;

12 (3) Advise the department in developing evaluations and
13 reporting on data to the Secretary of Education under 20 U.S.C. § 1418;

14 (4) Advise the department in developing corrective action plans
15 to address findings identified in federal monitoring reports under this part;
16 and

17 (5) Advise the department in developing and implementing
18 policies relating to the coordination of services for children with
19 disabilities.

20
21 SECTION 30. Arkansas Code § 6-41-216 is amended to read as follows:

22 6-41-216. Tests and Evaluations – Change of child's status – Hearings.

23 (a) All decisions pertaining to change in the educational status of a
24 child shall follow due process procedures established by the State Board of
25 Education.

26 (b) Due process shall include:

27 (1) Providing for prior notification to parents of testing and
28 provision of special education services;

29 (2) The right to request educational evaluation and special
30 education services; and

31 (3) The right to hearing and appeal of educational decisions.

32 (c)(1) The board shall prescribe rules and regulations governing
33 hearings and appeals.

34 (2) Hearings shall be conducted by individuals hereinafter
35 referred to as "hearing officers".

36 (3)(A) The ~~board~~ Special Education Section of the Department of

1 Education shall establish standards and qualifications for individuals to
2 serve as hearing officers.

3 (B) Neither an employee of the Department of Education nor
4 an employee of the local school district involved in a particular hearing may
5 serve as a hearing officer.

6 (C) Professional service contracts with individuals made
7 for the purpose of compensating them for services rendered in connection with
8 hearings shall not constitute employment.

9 (d) An individual serving as a qualified hearing officer at an
10 assigned hearing shall be immune from civil suit brought by either party for
11 the consequences of actions required of a hearing officer.

12 (e)(1) An individual serving as a qualified hearing officer under this
13 section shall have the power to issue subpoenas and to bring before him or
14 her as a witness any person in this state.

15 (2) The hearing officer shall issue a subpoena upon the request
16 of any party to a pending proceeding.

17 (3) The writ shall be directed to the sheriff of the county
18 where the witness resides or may be found.

19 (4) The writ may require the witness to bring with him or her
20 any book, writing, or other thing under his control which he or she is bound
21 by law to produce in evidence.

22 (5) Service of the writ shall be in the manner as provided by
23 law for the service of subpoenas in civil cases.

24 (f)(1) A witness who has been served by subpoena in the manner
25 provided by law and who shall have been paid or tendered the legal fees for
26 travel and attendance as provided by law shall be obligated to attend for
27 examination of the trial of the cause pending before the board.

28 (2) In the event a witness shall have been served with subpoenas
29 as herein provided and fails to attend the hearing in obedience to the
30 subpoena, the hearing officer may apply to the circuit court of the county
31 wherein the hearing officer is having the hearing for an order causing the
32 arrest of the witness and directing that the witness be brought before the
33 court.

34 (3) The court shall have the power to punish the disobedient
35 witness for contempt as provided by law in the trial of civil cases.

36 (4) The disobedient witness shall be liable in damages for

1 nonattendance to the trial or hearing as provided by law.

2 (g) Any party aggrieved by the findings and final decision made by the
 3 hearing officer ~~has the right to bring a civil action~~ shall have ninety (90)
 4 days from the date of the decision of the hearing officer to bring a civil
 5 action with respect to the complaint presented in either federal district
 6 court or a state court of competent jurisdiction pursuant to the Individuals
 7 with Disabilities Education Act ~~within three (3) years after the date on~~
 8 ~~which the hearing officer's final decision is rendered in the hearing, as~~
 9 amended, without regard to the amount, if any, in controversy.

11 SECTION 31. Arkansas Code § 6-41-217 is amended to read as follows:

12 6-41-217. Individualized Education Program.

13 (a) Before any action is taken with respect to the initial placement
 14 of a child with disabilities in a special education program, a full and
 15 individual evaluation of the child's educational needs must be conducted.

16 (b)(1) Prior to placement in special education services, each child
 17 must have an individualized education program.

18 (2) The term "individualized education program" or "IEP" means a
 19 written statement for each child with disabilities that is developed,
 20 reviewed, and revised ~~in a meeting consistent~~ accordance with the
 21 requirements of the Individuals with Disabilities Education Act.

22 (3) The individualized education program shall include:

23 (A) A statement of the child's present levels of
 24 ~~educational~~ academic achievement and functional performance including:

25 (i) How the child's disability affects the child's
 26 involvement and progress in the general education curriculum; ~~or~~

27 (ii) For preschool children, as appropriate, how the
 28 disability affects the child's participation in appropriate activities; and

29 (iii) For children with disabilities who take
 30 alternate assessments aligned to alternate achievement standards, a
 31 description of benchmarks or short-term objectives;

32 (B) A statement of measurable annual goals, including
 33 ~~benchmarks or short-term objectives, related~~ academic and functional goals,
 34 designed to:

35 (i) ~~Meeting~~ Meet the child's needs that result from
 36 the child's disability in order to enable the child to be involved in and to

1 make progress in the general education curriculum; and

2 (ii) ~~Meeting~~ Meet each of the child's other
3 educational needs that result from the child's disability;

4 (C) A description of how the child's progress toward
5 meeting the annual goals described in subdivisions (b)(3)(B)(i) and
6 (b)(3)(B)(ii) of this section will be measured and when periodic reports will
7 be provided on the progress the child is making toward meeting the annual
8 goals, including, but not limited to, the use of quarterly or other periodic
9 reports, concurrent with the issuance of report cards;

10 ~~(C)-(D)~~ (D) A statement of the special education and related
11 services and supplementary aids and services, based on peer-reviewed research
12 to the extent practicable, to be provided to the child, or on behalf of the
13 child, and a statement of the program modifications or supports for school
14 personnel that will be provided for the child+;

15 (i) To advance appropriately toward attaining the
16 annual goals;

17 (ii) To be involved in and to make progress in the
18 general education curriculum in accordance with this section and to
19 participate in extracurricular and other nonacademic activities; and

20 (iii) To be educated and to participate with other
21 children with disabilities and nondisabled children in the activities
22 described in this section;

23 ~~(D)-(E)~~ (E) An explanation of the extent, if any, to which the
24 child will not participate with nondisabled children in the regular class and
25 in the activities described in this section;

26 ~~(E)-(i)-(F)(i)~~ (F)(i) A statement of any individual ~~modifications~~
27 ~~in the administration of statewide or district wide assessments of student~~
28 ~~achievement that are needed in order for the child to participate in such~~
29 ~~assessment; and appropriate accommodations that are necessary to measure the~~
30 academic achievement and functional performance of the child on state and
31 district wide assessments consistent with § 612(a)(16)(A) of P.L. 105-17,
32 regarding participation in assessments of students with disabilities in all
33 general statewide and districtwide assessment programs.

34 (ii) If the individualized education program team
35 determines that the child shall take an alternative assessment ~~will not~~
36 ~~participate in~~ on a particular statewide or ~~district wide~~ districtwide

assessment of student achievement ~~or part of such an assessment~~, a statement of why:

(a) The child cannot participate in the regular assessment; and

(b) The particular alternate assessment selected is appropriate for the child;

~~(a) Why that assessment is not appropriate for the child; and~~

~~(b) How the child will be assessed;—~~

~~(F)(G)~~ The projected date for the beginning of the services and modifications described in this section, and the anticipated frequency, location, and duration of those services and modifications;

~~(G)(i)(H)(i)(a)~~ Beginning at age fourteen (14), and updated annually, a statement of the transitional service needs of the child under the applicable components of the child's individualized education program that focus on the child's courses of study such as participation in advanced placement courses or a vocational education program; Beginning not later than the first individualized education plan to be in effect when the child is sixteen (16) years of age and updated annually thereafter, appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills.

(b) The transition services, including courses of study, needed to assist the child in reaching those goals.

~~(ii) Beginning at age sixteen (16) or younger, if determined appropriate by the individualized education program team, a statement of needed transitional services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages; and~~

~~(iii)(ii)~~ Beginning at least no later than one (1) year before the child reaches the age of majority under state law, a statement that the child has been informed of his or her rights under Title 6 of this Code, if any, that will transfer to the child on reaching the age of majority under the Individuals with Disabilities Education Act; and.

~~(H) A statement of:—~~

~~(i) How the child's progress toward the annual goals~~

described in this section will be measured; and

(ii) How the child's parents will be regularly informed by such means as periodic report cards, at least as often as parents are informed of their nondisabled children's progress, of;

(a) Their child's progress toward the annual goals described in this section; and

(b) The extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.

(c) Nothing in this section shall be construed to require the individualized education program team to include information under one (1) component of a child's individualized education program that is already contained under another component of such individualized education program.